Legal Regulation of the Obligation of Employers to Provide Social Support to Employees in the Polish Legal System

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Abstract The aim of the article is to present the Polish legal regulations concerning the obligation of social support to employees by employers, including the rich axiological layer having its source not only in socialist history of this country, but also in the legal principles expressed in the current Constitution. This issue may be interesting and inspiring in particular for people who, in order to better protect employees, support broader state interference in the market economy. The abovementioned obligation was regulated by the Polish legislator by the Act (and therefore for many employers is imperative) and formulated very widely (on both the objective and subjective scope). For this reason, Polish labor law, to the extent presented in this article, is in many ways unusual, compared to other legal systems, but it seems that it is still not known to a wider group of specialists dealing with labor law in capitalist countries. The paper also presents the analysis of the specific legislative solutions within the scope of the topic; for example the role of trade unions in the process of disbursement of funds from the social fund. The whole discussion is complemented by a consideration of the implementation of the social obligation to support workers by employers on the example of University in Szczecin (one of the largest universities in Poland).

Keywords Social security · Social fund · Employee · Employer · Employment relationship · Social benefits fund

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General Remarks

Against the background of other European legal systems Polish regulation of the social support of workers by their employers differs significantly. This difference is manifested mainly by two aspects of the Polish legal system. First, is the imposition on certain employers of an absolute legal obligation of social support for their employees from the funds of the employing entity. Second, is the fact that the obligation stems not only from regulations based on a basic labor market law, which is the Act of Law of 26 June 1974, the Labour Code (Dz. U. [OJ] 1974 No. 24, item 141 as amended.) but also from functional interpretations of the highest ranking law of the land, which is the Polish Constitution of 2 April 1997 (Dziennik Ustaw – hereinafter also referred to as the Dz.U. – of 1997, No. 78, item 483).

The shaping of the legal relationship between the parties to an employment relationship by Polish legislation in this respect is closely linked with the history of Poland as a country that was formerly a part of the so-called bloc of socialist countries. A characteristic feature of these countries was, inter alia, the creation of social and economic life according to the ideology of communism that is a dictatorship of the proletariat, the centrally controlled economy and the idea of social justice. In addition, even though after 1989 Poland formally regained sovereignty, the influence of communist ideology can be seen to this day, as evidenced by, inter alia, the maintenance of the obligation of employers to pay social support for workers as part of the new socio-economic and political reality.

This state of affairs is sometimes criticized in the Polish literature, but it is only possible to completely understand it after taking into account the history of the country, as well as the fairly strong influence of the teachings of the Catholic Church on Polish societal views. It must not be forgotten that one of the largest advocates of social solidarity and the fair distribution of wealth in the economy (including in employment) was a great Pole – Pope John Paul II. His encyclical *Laborem Exercens*, as a complement to and an extension of the views enunciated by other popes (especially Leo XIII in his encyclical *Rerum Novarum*), certainly exerted some influence on the shape of the Polish legal system, proclaiming not only the duty to pay fair wages but also the need to introduce various forms of co-ownership of the instruments of labor, workers' participation in the management of the workplace or in the profits of the company.

If to the above we add the fact that during the Polish transition period, “solidarity” was significant to the power of trade unions, in particular of the Independent Self-Governing Trade Union “Solidarity”, it should not be surprising that the legislation has imposed on employers a relatively high standard of social care for workers compared to the so-called capitalist countries.

In light of the above comments, there is no doubt that the presentation of the Polish regulation of employers' obligation of social support for workers must be preceded by a brief historical sketch showing the evolution of the regulations governing this issue as well as some comments of an axiological nature. Only then will it be appropriate to present the categories of employers who are liable for the social support of their employees, the types and scope of this obligation, as well as the recipients of the support. Due to the limitations of publishing and the extent of the material to be discussed, the arguments regarding this subject, for reasons independent of the author, will not be too detailed.

Brief Historical Overview

The organization of social activities by employers in Poland began its dynamic development in the post-war period. The necessity of having the Polish state organize mechanisms of social

support at that time stemmed from the need to rebuild the social morale that was at a low after the experience of the war and stemmed from the need to eliminate poverty, which affected a number of Polish citizens during the military action. However, due to the fact that in socialist countries such as Poland at that time the role of classic social assistance was undervalued,¹ the burden of the social support of citizens was passed on to workplaces. Employers' main task, as stressed by the literature (Zarychta 1995; Wiktor 1993; Wróblewski 1991), included, inter alia, the implementation of the social welfare function, which was manifested in three parts. The first of these included provisions designed to ensure safe and healthy working conditions for employees. The second consisted of all sorts of benefits derived from collective agreements with employers (such as coal allowances, benefits for new employees, and prophylactic feeding); while the third part, called the "social action", consisted of benefits and services of a social nature to which uniformly and universally all employees were entitled. The rest of this article will focus on this last group of benefits.

The obligation to organize "social action" was first introduced by order of the Minister of Industry on 12 December 1946 (DES19/1358/21191, not published) and concerned only a limited group of employers who were generally entrepreneurs from the sectors of industry and trade. It thus did not include, for example, the units of state government, local government and cooperative administration. It was not until the resolution of the Economic Committee of the Council of Ministers on 28 September 1948 on social action in the budget for 1949 (not published) that a recommendation was made to extend this obligation to employers operating in all sectors of the national economy. However, it is worth pointing out that among the persons entitled to the use of this kind of social support from the very beginning were not only employees but also their families, and over time, many other groups of citizens were also included.

In the late 1940s, quite uniform types of social benefits were already in place in workplaces, which could include provisions related to the care of mothers and children, workers' holidays, social health protections, social material provisions, cultural and educational actions, and the training of employees about "social action" (the order of the State Commission of Economic Planning of 15 October 1949 on the preparation of Social Action budget estimates for the year 1950, SO-1/VB/01/9, not published).

Initially, the amount of funding for various types of social benefits to be realized in the workplace was not defined; instead, it depended on the discretion of the employer, which was obliged to cover expenses associated with "social action" from its own current assets (for more see Hanusz 1985/1986). In a short time, however, this led to social discontent due to the large differences in the amount of individual social benefits in various workplaces. Due to this, among other reasons, first, an upper limit to the amount of expenses allocated to "social action" was introduced (even up to 7% of the total wage fund – the Economic and Social Department of Ministry of Industry of 17 April 1947, DES / IIIA / 01/1, unpublished, and the Minister of Industry of 12 December 1946 referred to). This was followed by the establishment of social action funds (Instruction of the Minister of Industry and Trade of 30 October 1947 on establishment of the Social Action Fund in the enterprises subordinated to the Ministry of Industry and Trade and on execution of this action budgets in 1948 (ESF-8), Dz. Urz.

¹ Socialism primarily associated the phenomenon of poverty with the existence of unemployment, so the remedy for this kind of problem was to ensure work and, thus, a primary source of income to every citizen. In practice, therefore, the principle of "who does not work shall not eat" guided; a formalized manifestation of this principle was the introduction of a work order (Act of Law of 7 March 1950 on preventing turnover of staff in professions or disciplines particularly important for the socialized economy, Dz. U. No. 10, item 107).

Ministerstwa Przemysłu i Handlu No. 17, item 257), aiming to isolate and secure resources for the social activities of each employer (the basis for the disbursement of the funds by the workplace was the annual financial plan of “social action”, which had to be approved by the so-called Central Board of the particular industry, and then, collectively, had to be approved by the Economic and Social Department of the Ministry of Industry and Trade).

It was not until the resolution of the Council of Ministers on the separation of funds for the Social Fund on 29 January 1950 (Monitor Polski No. A-17, item 178) that led, for the first time, to the creation of the so-called social fund for all sectors of the socialized economy. This made clear, at the same time, that the fund will arise from the tax write-off incurred by the primary operations of the individual employers, constituting a specific percentage of the annual wage fund. The fund financed the workers’ holidays, Sunday holidays, sanatoria, sports, benefits associated with the care of mothers and children, as well as cultural and educational activities (Tendera 1984).

This state of affairs did not last long though, and already in 1951, as a result of the resolution of the Council of Ministers of 17 April 1950 on initial guidelines to the principles of the state budget for 1951 (Monitor Polski No. A-55, item 631), the entire fund used for implementing employers’ social activities was transferred to the state budget and the social funds were liquidated. Not abandoned, however, was the active development of “social action” in workplaces. In addition to providing employees with classic social benefits in the form of financing or organizing holiday packages or activities of a cultural and educational nature, some employers offered accommodations in the company’s residential homes, workers’ hotels and “young worker” hostels. What is more, some companies were obligated to provide partial financing for in-plant vocational schools, dormitories for students, kindergartens and child care centers, and children’s playgrounds. Additionally, a network of canteens and cafeterias developed, and the health care of workers was entrusted to a health care service attached to the company. The state also organized occupational rehabilitation centers and laboratories studying the psychology and physiology of labor, which employers were required to partially finance (manifestations of social activity by employers in the years 1951–1963 indicated here are given by Tendera 1984).

Generally, the 1950s and 1960s of the last century was a turbulent period in the history of the evolution of the regulations on companies’ social benefits, which was characterized by an unsuccessful attempt to create an effective, universal, uniform and planned system for satisfying the social needs of employees through workplaces in Poland (see in particular the Act of Law of 28 March 1958 on company funding of state-owned enterprises, i.e., Dz.U. 1960, No. 13, item 78 and the Resolution of the Council of Ministers of 10 December 1963 on non-operating activities of a socio-living nature of state-owned enterprises, Monitor Polski No. 95, item 444). Funds for social activities, as shown by the above arguments, were flowing through multiple channels, which caused chaos in the organization of the system of financing the social support for workers.

A breakthrough in this area came only in the 1970s when the first order of the institution of the social fund in state-owned enterprises was restored and companies’ social activities and welfare (livelihood) activities were clearly distinguished from each other (resolution No. 180 of the Council of Ministers of 9 November 1970 on the social fund in the state-owned enterprises, Monitor Polski No. 40, item 297). This was followed by a thorough reform of the system going back, in part, to the solutions adopted in 1950 (Act of Law of 23 June 1973 on the principles of the creation and distribution of the company bonus fund and the company social and housing funds, Dz.U. No. 27, item 150).

The abovementioned reform of workplace social activities in 1974, was based on the following assumptions (principles). First, it introduced a uniform way to create a social fund for all working people, for all workplaces and for a uniform range of benefits financed by the companies' social fund. Second, a company's social fund was the sole and exclusive source of financing social activities organized through the workplace. Third, the primary source of financing the company's social fund was a tax write-off (with a target range of 2% of a total wage fund) charged to the costs of the primary operations of the company. Fourth, details specifying of the kinds and types of provided social services (as part of the already mentioned uniform range of services) was left to the workplaces (more on the reform of 1974 was written by Hanusz 1984).

The most popular benefits included the organization and financing of workers' holiday packages – in 1977 4.2 million citizens used these, summer holiday camps, winter holiday camps and other forms of recreational activities for children – in 1977 1.7 million children used them, the provision of subsidies to cultural and educational activities – 600 million PLN in 1979 on a national scale, and non-repayable material and financial aid, such as grants for the purchase of medicine, clothing, and fuel – approx. 500 million PLN per year nationwide (Komorniczak 1979). The granting of financial aid to young couples for the repayment of a housing loan also became popular – in 1978 approx. 54,000 young couples benefited from this kind of support (Komorniczak 1979). In addition, in order to better satisfy the individual and social needs of workers and their families in the workplaces, so-called employee services were also established (Resolution No. 250 of the Council of Ministers of 9 November 1973 on the workers service in the state organizational units, Monitor Polski No. 53, item 287).

It is also worth noting the wide circle of people entitled to benefit from companies' social activities. This kind of support could be used equally not only by workers and their families but also by former employees of the particular workplace – pensioners. Additionally, the possibility of obtaining social support also extended to home workers (work under contract) and members of their families, as well as to students and family members of employees who died in the workplace (§ 15 of the regulation of the Council of Ministers of 2 November 1973 on the company social funds and company social activities, Dz.U. No. 43, item 260). In 1981, this opportunity was extended again to those who were working in the agency-commission system, to women benefiting from unpaid leave to care for a small child, as well as to conscripts performing alternative service in the workplace (see the regulation of the Council of Ministers of 24 April 1981 amending the regulation on the company social fund and social activity, Dz.U. No. 13, item 63).

The last major reforms of company social activities in Poland, before the fall of the communist regime, came into force in 1983 (which introduced, among other things, the principle that the size of the tax write-off to the fund incurred by a company's primary business will be the product of 50% of the lowest monthly salary in the national economy and the number of people employed in a workplace) and in 1987 (which was stated, *inter alia*, that the granting of services and benefits and the amount of subsidies from the company social fund should be conditional upon the life, family and financial situation of the person entitled to these services and benefits) (see The Act of Law of 26 February 1982 on financial management of state-owned enterprises, Dz.U. No. 7, item 54; The Act of Law of 24 October 1986 on company social and housing funds in the units in the socialized economy, Dz.U. of 1990, No. 58, item 343).

On 6 February 1989, so-called round table talks (including representatives of the communist leadership, Solidarity opposition and representatives of Christian Churches) were

launched, which resulted, *inter alia*, in the establishment of the post of the President, the appointment of the upper house of parliament (Senate) and the implementation of partially (35%) free elections to the Sejm and completely free elections to the Senate. From that moment, the socialist system began to openly fall, and at the end of 1989, the traditional name of the country (the Republic of Poland) and national emblem (an eagle with a crown) were restored. Gradually, reforms were introduced in all spheres of life, including regarding companies' social activities. In April of 1990, censorship was abolished; in May, the Security Service was dissolved (the repressive apparatus of the state towards its own citizens); in November, the common presidential elections were announced (won by Lech Walesa); and in October 1991, free parliamentary elections were held. The process of the recovery of independence by Poland was symbolically completed with the withdrawal, in 1993, of the last troops of the Russian army from the territory of the country.

Against the background of the macroscopic events above, the Act of Law of 4 March 1994 on the company social benefits fund (Dz.U. of 2016, item 800, hereinafter also referred to as the ZFŚS) entered into force; the law is still currently valid and has been repeatedly amended. Like the reforms in other areas of life, the social benefits law had to match the new assumptions of the political system and, most of all, to express a certain balance between the requirements of the market economy and the principles of social justice. Therefore, in the period preceding its introduction, not only was its content discussed but, above all, so was its need for existence. During the trilateral talks between representatives of the government, trade unions and employers, a dispute occurred in this field. Representatives of employers' organizations preferred that rules related to the social support of workers by companies be mainly derived from the so-called autonomous sources of law (especially collective bargaining and collective agreements), which followed the traditions of foreign countries with long experience of the market economy. In turn, representatives of trade unions sought comprehensive regulation of these issues in the statutory law, thereby further expanding the circle of entities obliged to provide social support for workers (for more on this topic see Rączka 1994).

The government, while acknowledging that the employers' approach would better reflect the essence of a market economy, instead submitted to the pressure from the trade unions. Efforts were made to find a compromise between the extreme positions of the social partners, and finally, it was accepted that the issues in question would be regulated by statute but with the possibility of disabling its application if trade unions and the employer decide to do so in their collective agreement. For the entities obliged to apply the law, its regulation covered essentially all employers, with some exceptions for the education and higher education systems for which the rules of social support for workers have been regulated in separate acts of law.

Presenting the full evolution of the changes in the 1994 Act of Law does not seem appropriate. More information about its current version will be given in further parts of the article.

Axiological Basis of Employers' Obligation to Provide Social Support for Workers

As appears from the legal historical analysis presented so far, an obligation to promote the welfare of workers by companies has always been strongly enshrined in the law. Additionally, it seemed to be anchored in the axiology of a legal system where societal values were expected

to be protected by the legislature by the setting of legal standards (for more on the perception of this issue by the employees see Wróblewski 1991; Wiktor 1993). The main objective of the social fund was the elimination of wealth inequalities between the individual social classes, motivating employees to be more conscientious, diligent and efficient workers and leading to the implementation of various specific objectives of the political system, such as an increase of the cultural level “of the people’s masses” (see e.g., Article 3 the Polish People’s Republic Constitution of 22 July 1952, Dz.U. No. 33, item. 232).

Through the adoption, in 1997, of the Constitution of the Republic of Poland, which is currently in force, however, some fundamental assumptions about the Polish socio-economic system were changed. Additionally, the public’s expectations that accumulated over the years, which were mentioned above, slightly decreased, as indicated by studies conducted after the political system’s transition period.² Added to this is the fact that, since 1 January 2017, the range of employers obliged to create company social funds has narrowed because, according to the data cited by the Ministry of Development, up to 41.2% of companies indicated that the abolition of this obligation would contribute the most to the improvement of their company’s functioning.³

Therefore, the question returns about the relevance of maintaining a statutory obligation to promote the welfare of workers (and even their families) by employers in Poland. Its axiological basis could be found in the regulations derived from the Constitution of the Republic of Poland, although attention is also drawn to the controversial nature of this thesis (see Sobczyk 2007).

Employers’ obligation to provide social support to workers can be seen as a sign of the principle of social justice referred to in Article 2 of the Constitution (“The Republic of Poland shall be a democratic state ruled by law and implementing the principles of social justice”), which emphasizes wealth distribution as formulated in a number of commonly accepted theories of justice in the world (see e.g., Rawls 2009; Ziemiński 1992). The principle of social justice can be understood as a factor leading to the right (fair) balance between the public interest (common good) and the interests of the individual (the Constitutional Court’s judgment of 12 April 2000, K 8/98, “Orzecznictwo Trybunału Konstytucyjnego” 2000, No. 3, item 87) and is bound to concepts such as equality before the law, social solidarity, a minimum of social security and the protection of basic living conditions for people who are out of work not of their own volition (the Constitutional Court’s decision of 25 February 1997, K 21/95, “Orzecznictwo Trybunału Konstytucyjnego. Zbiór Urzędowy” 1997, No. 1, item 7). Balancing the interests and expectations of the potential recipients of social benefits with the interests of those who ultimately finance them is difficult, and additionally, redistribution of national income through employers entails certain general public costs.

The employer controls certain scarce resources, in this case employment (in Poland, the unemployment rate is approx. 8%⁴), and has economic and psychological advantages over the

² The results of the analysis carried out in mid-1992 by the Laboratory for Social Research at the request of the newspaper “Rzeczpospolita” show that 61% of the adult population of Poland agreed to the elimination of the social fund under the condition of a simultaneous increase of individual salaries. The opposite view was presented by only 25% of surveyed respondents (see “Jak płacić pracownikom? Wynagrodzenie zamiast socjalnej dopłaty”, *Rzeczpospolita* 1992, no. 204).

³ Data available on the website of the Ministry of Development, at https://www.mr.gov.pl/media/21039/Pakiet_ulatwien_w_prowadzeniu_dzialalnosci_gospodarczej.pdf (access date: 27.06.2017)

⁴ Central Statistical Office, available on the website <http://stat.gov.pl/obszary-tematyczne/rynek-pracy/bezrobocie-rejestrowane/stopa-bezrobocia-w-latach-1990-2016,4,1.html> (access date: 31.06.2017)

worker in the negotiation process. Very often, therefore, it is the employer who in Polish business practice sets the conditions of employment that the weaker party to the contract either must accept or refrain from taking up the employment. The result is that potential employees do not work under fully voluntary conditions (as preached even by the libertarians), which in turn causes employees to decide to perform work that often does not satisfy their justified social and livelihood needs.

To align the negotiating position of the labor relationship, legislation has introduced a number of legal mechanisms, including primarily the semi-imperative standards of labor laws that guarantee workers a minimum of legal protection against the stronger party to the contract (e.g., Article 18 of the Labour Code). While employers' obligation of providing social support to workers seems to be intended not only to equalize the economic inequality between the parties to the employment relationship, or more broadly – between members of society – but above all also to ensure that the beneficiary of human labor is not guided solely by the idea of maximizing profit; employers must also care about the satisfaction of the justified social needs of the people whose work he uses. This approach of the legislation may be considered controversial, but at the present time, it seems to be a needed and effective mechanism to prevent the phenomenon of the dehumanization of labor relations where the human is perceived only as a means of production and not as having the dignity of the entity involved in the work process. This also fulfills a function that is basically undisputed in the Polish legal literature, the obligation to ensure to workers a wage level that is specified in the law.

These observations allow for a smooth transition to the next constitutional regulation to which the justification for the employer's obligations discussed in this article can be traced. The discussion here references Article 20 of the Constitution of the Republic of Poland, which states that the “social market economy, based on the freedom of economic activity, private ownership, and solidarity, dialogue and cooperation between social partners, shall be the basis of the economic system of the Republic of Poland”. From the wording of that provision it becomes clear that the Polish economic system is based on the combination of two ideas: the market economy and the social state (the Constitutional Court's judgement of 30 January 2001, K 17/00, “*Orzecznictwo Trybunału Konstytucyjnego*” 2001, No. 1, item 4; social market economy model is sometimes criticized – see e.g., Hayek 1988). Thus, on one hand, the state should not interfere in the sphere of business activity, and on the other, certain state activity is possible in this area, such as organizational regulation, intervention, redistribution and supervisory actions (Zaradkiewicz 2016). In addition, A. Müller-Armack, considered the founder of the concept of the “social market economy”, stated explicitly that the state should create a “social enterprise structure, in which the dignity of the employee as a human being and a co-worker is recognized, and the right to co-decision is granted to him without limiting the initiative and the responsibility of the entrepreneur” (quoted from Zaradkiewicz 2016).

Worth emphasizing is the fact that the foundation of the social market economy, as has been mentioned, is the principle of social solidarity, which assumes the compatibility and common interests of all individuals and social groups within the community, a mutual understanding of needs, and the duty to participate in the burdens for the benefit of society. In the context of the labor market, attention should be directed to the Constitutional Court's judgment of 30 January 2001 (K 17/00, “*Orzecznictwo Trybunału Konstytucyjnego*” 2001, No. 1, item 4), which found that social solidarity means, *inter alia*, a constitutional duty “for social partners, and therefore also employers, to bear the costs of social transformation”. One of the tools for including employers in the circle of those who bear these costs is undoubtedly the statutory obligation to establish the social benefit funds by some employing entities (the opposite view

is presented by Sobczyk 2007; for more on the realization of the idea of a social market economy in the Polish labor system, see Skapski 2014).

It is worth noting that many Polish constitutionalists see the source of the principle of social solidarity as the social teachings of the Catholic Church (see e.g., Domańska 2001; Strzyczkowski 2006; Zaradkiewicz 2016). The most important church documents in this regard, in addition to the aforementioned, include the encyclical *Quadragesimo Anno*, in which Pius XI stressed that the real and effective principle of managing economic life should be considered social justice and charity, which can prevent the dictatorship of a small group of people gathering substantial capital in their hands. A very important papal document is also the encyclical *Centesimus Annus*, in which John Paul II devoted a great deal of space to the principle of social solidarity. Finally, we should mention the Pastoral Constitution *Gaudium et Spes*, of 1965, which stressed that private property “has by its nature a social character, based on the law of the universal destination of goods”. This law means that “a man using these goods should consider external things, which he has not only as his own but also as common in the sense that not only he but also others benefit from them. Possession of any property makes its holder a steward of Providence; he should multiply and distribute its fruits to others, and above all to his whole family” (Catechism of the Catholic Church, 2404).

Of course, partnership and solidarity need to take into account not only the interests of workers but also the interests of employers, including taking into account employers’ economic situation when determining the scope of the statutory benefits for employees (the Constitutional Court judgement of 24 February 2004, K 54/02, “Orzecznictwo Trybunału Konstytucyjnego. Zeszyt A” 2004, No. 2, item 10). After all, without employers there would not be the employees. At this point, it should be stressed that an absolute obligation of social support for workers in Poland has been dependent upon, among other things, the size of the employer (employment level), which is a factor of the economic condition of the employing entity.

Employers’ Obligation to Provide Social Support for Workers in the Current State of the Law (Act of Law on the Company Social Fund (ZFŚS) of 1994)

General Remarks

As already mentioned at the outset of this article, employers’ obligation to provide social support to workers has been established not only in the Act of Law on Company Social Benefits Fund of 1994 but also in Article 16 of the Labour Code. According to the latter provision, which is contained in the section entitled “Basic principles of labour law,” the employer, according to the provisions on possibilities and conditions, shall satisfy the livelihood, social and cultural needs of employees. Therefore, the code’s obligation, even though it has been elevated to the rule of law, has not been formulated in absolute terms because its implementation may be subject to the question of whether the employer meets the appropriate “possibilities and conditions”. In practice, this means that the employer could quite easily avoid the obligation imposed on it by that provision, which, combined with the dominant concept in Poland of the non-claim nature of this regulation, would create the illusion of the existence of an obligation but not its genuine dimension (see e.g., Mędrala 2010).

The provision of Article 16 of the Labour Code (KP) should be interpreted while taking into account the Law on the ZFŚS of 1994, which imposes on the employers specified in it an absolute and universal obligation of social support for workers and other persons protected by the union organizations and labor supervision bodies, such as the National Labour Inspectorate. Some employers may be released from this obligation only and exclusively after meeting the strict conditions specified in the law, which will be further discussed later in the article.

The Act of Law on ZFŚS determines not only the principles of creating the company social fund by employers but also the rules for the management of this fund, which is intended to finance social activities organized for the benefit of beneficiaries. The term social activity is meant by the legislation to include “the services provided by employers for various forms of vacations, cultural and educational, sport and recreational activities, child care in nurseries, clubs for children, provision of a daily caregiver or nanny in kindergartens and other forms of preschool education, provision of material assistance – in kind or financial, as well as repayable or non-repayable assistance for housing purposes under the conditions specified in the agreement” (Article 2 (Chruściel 2015) of the Act of Law). Therefore, this concept now also contains the benefits that the legal system once included exclusively in the activities regarding living conditions (housing assistance) and cultural activities (cultural and educational).

The social fund is created primarily through the annual basic tax write-off, which is calculated in proportion to the average number of employees (Article 5 (Chruściel 2015) of the Act of Law). The amount of the write-off per employee is, as a rule, 37.5% of the average monthly salary in the national economy in the previous year or in the second half of the previous year when the average salary in this period accounted for a higher amount. The amount of the basic write-off may be increased by 6.25% of the average monthly salary, referred to above, for every employed person for whom a significant or moderate degree of disability was acknowledged. In addition, employers exercising the social care of pensioners, including from liquidated companies, may increase the fund by 6.25% of the average monthly salary, referred to above, for every pensioner entitled to this care. Moreover, the fund increases, among other things, with income from fees collected from persons or entities benefiting from the employer’s social activities; donations and bequests of natural and legal persons; interest from funds deposited in the account of the fund; the proceeds from interest on loans granted for housing purposes; income from the sale, lease and liquidation of fixed assets used for social activities not intended for the maintenance or restoration of occupational social facilities (Article 7 (Chruściel 2015) of the Act of Law). The fund resources that are not used in a given calendar year are transferred to the next year (Art. 11 of the Act of Law).

The fund resources are accumulated in a separate bank account, so despite the fact that the employer administers them, it cannot freely dispose of them. Use of the resources accumulated in the fund must be accomplished in the manner provided by law to avoid liability, possibly even criminal liability. In accordance with Article 12 (Chruściel 2015) of the Act of Law on ZFŚS, any employer or the entity responsible on behalf of the employer for the implementation of the provisions of the Act who does not perform the provisions of the Act or who takes action inconsistent with the provisions of the Act shall be liable to a fine.

Subjective Scope of the Act of Law

In the light of the provisions of the Act on the Company Social Benefits Fund of 1994, employers are obliged to conduct social activities. The concept of employer is regulated by

Article 3 of the Labour Code, according to which the employer is a natural person, legal person or organizational unit without legal personality that hires employees. Polish legislation, in contrast to most European Union countries, based the concept of the employer on the idea of management not ownership. This means that the employer may even be a unit that does not have ownership title to the workplace but only the control of its management and the management of the employees (for more see Hajn 2000; Wąż 2007). In practice, the law generates considerable problems of interpretation since it is possible within the framework of, e.g., a single company, there are several employers (if the company has branches, each of them may be the employer independent of the “headquarters”). In such a case, the problem arises of co-operation of employers in conducting social activities, which the Act of Law on the ZFŚS is trying to solve by introducing the possibility of several employers jointly organizing social activities on the basis of an agreement concluded between them (Article 9 of the Act).

By analyzing the provisions of the ZFŚS Act, it can be concluded that the legislature decided to significantly differentiate between the generally specified group of entities required to conduct social activities for the benefit of entitled persons (employers) in terms of the responsibilities and powers regarding the conduct of social care. Therefore, four groups of employers can be distinguished, which will be briefly discussed below.

The first group includes employers of the so-called public sector (budgetary units and local government budgetary establishments), which, independent of the number of people they employ, are obliged to create a company social benefits fund and thus realize social activities to the fullest extent, and these employers cannot release themselves from this obligation even if such were the will of the employees or the unions representing them.

The second group is made up of employers that, as at 1 January of the given calendar year, employ at least 50 employees in FTE (e.g., 100 part-time employees); these employers are admittedly obliged to create company social benefits fund, but at any time, they can reduce the amount of the write-off for the fund, or even completely free themselves from its creation, if this possibility is provided for by the collective labor agreement (Article 4 (Chruściel 2015) of the Act) or under the provisions on remuneration agreed upon with the trade unions or employee representative (Article 4 (Domańska 2001) and (Florek 2008) of the Act).

The third group is composed of the employers who, as at 1 January of the calendar year, employ at least 20 and no more than 50 employees in FTE; these employers are not required to create the company social benefit fund unless the request to do so comes from a trade union acting in their workplace. In the event that such a request is made by the trade union organization, the employer will be obliged to create the social fund at his company, but the amount of write-off can be reduced with respect to the statutory level when the social partners agree on such a state of affairs in the collective agreement or the provisions on remuneration. Following the same procedure, it is also possible to completely exempt the employer from the obligation to create a social benefit fund even despite a previously filed request by the trade union organization for its establishment. If the trade union organization does not submit an application for the establishment of the fund, it does not mean that the employer will not have any obligation related to social support for the employees (see the fourth group below).

The fourth group of employers consists of those employing, as at 1 January of the particular year, fewer than 50 employees in FTE; these employers may voluntarily decide to create or not to create a fund (unless they are in the third group and the trade unions have requested that a social fund be created). If the employers of this group decide to establish a social fund they can do so up to the amount and under the conditions specified in the Act of Law (and thus may, for example, unilaterally establish a write-off for the fund that is lower than the statutory amount).

If, however, they abandon its creation, they must pay the so-called holiday allowance in its place (sometimes they will have such an obligation). The amount of the holiday allowance cannot exceed the amount of the basic write-off and is paid annually to each employee who has at least 14 consecutive calendar days of annual leave. In contrast to the employers who have an obligation to create a social fund, the employer who created it voluntarily does not have to accumulate this fund in a separate bank account or transfer contributions to the fund within the time limits specified by the law (Article 6 (2a) of the Act). Such an employer also cannot be held liable under the criminal law that was referred to earlier, Article 12 (Chruściel 2015) of the ZFŚS Act. Finally, it is worth noting that the employer belonging to the group of entities discussed herein may resign from both the first and second of social activity forms indicated here. In the case of employers not covered by a collective labor agreement and not obliged to issue the regulations of remuneration, they shall communicate information related to not creating the fund and non-payment of the holiday allowance to employees in the first month of the calendar year in the manner adopted by a given employer (thus, they decide unilaterally about it). While for employers' employing at least 50 employees (not in full-time equivalents) who are covered by a collective labor agreement, the aforementioned provisions shall be contained in the collective labor agreement. If at such employers the employees are not covered by a collective labor agreement, the relevant provisions are contained in the remuneration provisions agreed upon with the trade union or employee representative (the decision depends therefore on the position expressed by the employees).

Having discussed briefly the categories of entities obligated by the ZFŚS Act to conduct social activities, the people entitled to benefits should also be briefly described. According to the Article 2 (Hanusz 1985/1986), included among the people entitled to benefits are the employees and their families, pensioners – former employees and their families, as well as other persons to whom the employer has indicated in the provisions of the company social benefits fund has the right to use the social benefits financed by the fund.

The largest group of beneficiaries of social assistance are the employees who, according to Article 2 of the Labour Code, are persons performing work for an employer under a contract of employment, appointment, election or cooperative contract of employment. What is decisive is only the legal relationship linking the parties not the conditions of the work, such as working time, job seniority or type of contract (Prusinowski 2016).

The second largest group of social fund beneficiaries are pensioners who are former employees of the employer obliged to conduct social activities. Pensioners are people who have started collecting a pension from the Polish social security system immediately after termination of employment with the particular employer or after a period covered by a disability pension (Chruściel 2015). Similarly, disability pensioners are persons receiving a pension under the Act of Law of 17 December 1998 on retirement and disability pensions from the social insurance fund (Dz.U. of 2015, item 748 as amended), if the benefit is obtained by them directly after the termination of employment with the particular employer.

The Act of Law on the Company Social Benefits Fund also indicates that the employer is obliged to provide social support to the family of employees and the family of pensioners – former employees, though the term “family” has not been defined. For this reason, most authors consider the employer to have the freedom to determine the circle of eligible persons in this respect, but in practice, it is assumed that at least the spouse and children should be covered (and so, *inter alia*, Chruściel 2015; Żukowski 1996; differently Prusinowski 2016).

The last group of persons eligible to use the social fund are those whose employer granted such a right in the provisions of the company social benefit fund (referred to in Article 8

(Domańska 2001) of the Act). In particular, these can be persons performing work for an employer on the basis of civil law contracts. A characteristic feature of this group of beneficiaries is that their participation in the financial resources of the social fund is dependent on the employer's decision.

Types, Forms and Procedures of Social Support

The resources of the social fund, in accordance with Article 1 (Chruściel 2015), can be spent on three purposes. First, for the financing of social activities organized for the benefit of eligible persons. Second, for the financing of the company's social facilities. Third, for the establishment of the company's nurseries, children's clubs, kindergartens and other forms of preschool education.

Types and forms of activity within the concept of "social activity", as already mentioned, are defined in Article 2 (Chruściel 2015) of the ZFŚS law. These include services provided by employers for various forms of cultural and educational activities, sports and recreation, child care in nurseries, clubs for children, daily child caregivers or nannies, kindergartens and other forms of preschool education, and for the provision of material assistance – in kind or financial, as well as repayable or non-repayable assistance for housing purposes under the conditions specified in the agreement.

According to Article 8 (Chruściel 2015) of the ZFŚS law, the granting of discounts by employers for services and benefits and the amount of subsidies from the social fund must depend on the life, family and material situation of the eligible person (on the so-called social criteria of the company's social fund distribution). Judicial decisions often have spoken on this topic – see, e.g., the judgment of the Court of Appeal in Lodz of 5 October 2015, III AUa 105/15, not published; the judgment of the Court of Appeal in Poznań of 12 November 2015, III AUa 233/15, LEX no. 2061994; the judgment of the Court of Appeal in Szczecin of 28 April 2016, III AUa 197/15, LEX no. 2107022. According to Article 8 (Domańska 2001) of the Act, the terms and conditions of the use of services and benefits funded by the social fund and the rules of allocation of the fund's resources to specific purposes and types of social activity are determined by the employer in the provisions agreed upon with the trade unions and, in their absence, with the employee elected by the staff of the company to represent its interests. Provisions of the company social benefits fund are an autonomous source of labor law, which binds the employer in the same way as the generally applicable laws. The provisions of the ZFŚS Regulations cannot be less favorable for workers than the provisions of the ZFŚS Act of 1994. The legislature, however, has left for employers a great deal of freedom in determining the types of benefits and the way of realizing them. According to the jurisprudence, the employer may also decide whether the benefits will be granted to employees upon request or at the initiative of the employer (judgment of the Court of Appeal in Szczecin of 6 October 2015, III AUa 185/15, not published).

Trade unions have the right to apply to the labor court with a claim for reimbursement to the social fund, if the funds were spent contrary to the provisions of the Act, or for transfer of due means to the fund (Article 8 (Florek 2008) of the Act) (see Florek 2008). In addition, in accordance with Article 27 (Domańska 2001) of the Act of 23 May 1991 on trade unions (Dz.U. of 2015 item 1881), granting current benefits from the fund to employees on the basis of previously agreed upon provisions of the company social benefits fund is made by agreement with the company's trade union organization, which in practice prevents the employer's unilateral spending of the funds accumulated in the social fund.

Specific forms of social activities within the scope of the abovementioned types of social activities shall be determined by the employer in the provisions of the company social benefits fund in consultation with trade unions or the employee representative. The most common forms of social activity include subsidizing family and individual holiday packages; vouchers for Christmas or Easter; financing or subsidizing participation in cultural events, such as a film in the cinema or a play in the theatre; attendance at a music concert or opera; as well as the funding of sports activities, in the form of reimbursement of vouchers for gyms, fitness classes and swimming pools.⁵ At larger public-sector employers there can be found the provision of returnable loans for housing purposes on preferential terms (usually bearing interest at a rate of 2 or 3%) as well as the provision of discounts to employees for the use of the so-called employer's social base (usually in the form of holiday resorts).⁶

Using funds from the social fund for medical care subscriptions,⁷ large catering activities, employee training and the cost of travel to work are generally ruled inappropriate (judgement of the Court of Appeal in Poznań of 3 July 2013, III AUa 146/13, LEX no. 726592). The financing of integration events and the organization of occasional holidays are also considered problematic (for more on this subject see Prusinowski 2016 and the judgement of the Court of Appeal in Białystok of 3 March 2015, III AUa 1398/14, Legalis no. 1245324). Regarding the latter, an attempt could possibly be made to characterize occasional holidays as a form of cultural and educational activity or sports and recreation.

Implementation of Employers' Obligation to Provide Social Support to Employees Based on the Example of the University of Szczecin

General Remarks

For a better understanding of the specificity of the Polish legal system with regard to the obligation of social support for employees by employers, it seems useful, in addition to the theoretical considerations, to show their practical dimension. For this purpose, the author will use the example of the University of Szczecin, which can be justified in two ways. Firstly, as an employee of the Faculty of Law and Administration, Chairman of the University Level Social Committee and the Chairman of the Rector's Committee for the Creation and Amendment of the Provisions of the Social Benefits Fund at the University of Szczecin, the author of this article knows very well the details of social activities of the university for entitled persons. Secondly, this example may be interesting for readers of Employee Responsibilities and Rights

⁵ See a report by Sedlak & Sedlak drawn up on the basis of surveys carried out from 25.02.2014 to 11.08.2014. In the study, 137 companies participated, and 83% of them fund non-wage activities from the company's own social benefits fund. The report is available at <http://wynagrodzenia.pl/artukul/podsumowanie-raportu-polityka-swadczen-dodatkowych-w-2014-roku> (access date: 03.06.2017).

⁶ See, e.g., the provisions of the social benefits fund of the Celestynów municipal office (http://bip.celestynow.pl/public/get_file_contents.php?id=160230 – access date: 03.06.2017) and also the provisions of the social benefits fund of the Szczecin city council (<http://bip.um.szczecin.pl/files/DEAB11E9D1054BEC91E467111317467A/zarzadzenie%20zfss%20470-15%20wraz%20z%20zalacznikami.pdf> – access date: 03.06.2017).

⁷ Although the expectations of employees in this area are huge – see a report by Sedlak & Sedlak drawn up on the basis of surveys carried out from 05.09.2016 to 06.07.2016. The study involved 1679 employees. The final version of the report includes responses by 1517 people. The report is available at <http://wynagrodzenia.pl/raport-placowy/swadczenia-dodatkowe-w-oczach-pracownikow-w-2016-roku> (access date: 03.06.2017).

Journal who are university employees to allow comparison of the realities of social support for employees in Poland with their own situation and context.

The social activities of public universities in Poland were always clearly visible in the Polish employment reality, which is confirmed by research carried out in the 1970s of the last century in which 53 universities participated (for more see Wojtczak 1976). Additionally, today, social activities are inscribed permanently in the image of Polish public universities, which, as public-sector employers, are obliged to create a social benefits fund regardless of the number of employees they employ. For this reason, most of the previously described regulations specified in the Act on the Company Social Benefits Fund of 1994 are fully applicable in the case of public universities. Some differences arise only from Article 157 of the Act of 27 July 2005 – the Law on Higher Education (Dz.U. of 2016, item 1842), which, as *lex specialis*, takes precedence over the provisions of the 1994 law.

According to Article 157 (Chruściel 2015; Florek 2008) of the Law on Higher Education for the employees of public universities, a tax write-off is created for the social benefits fund in the amount of 6.5% of the planned annual university wages and salaries, and the write-off per former employee (a pensioner) of a public university for a calendar year is 10% of the lowest annual total pension from the previous year, which is determined in accordance with Article 94 (Domańska 2001) (Chruściel 2015) (a) of the Act of 17 December 1998 on retirement and disability pensions from the social security fund (Dz.U. of 2016 item 887). In addition, Paragraph 4a of this legal regulation indicates that if the university runs its nursery or children's club, the services thereof can also be used by the children of students and doctoral students.

In conducting the social activities by public universities, in addition to the abovementioned, it is also possible to allocate the social fund resources for the establishment of employee pension schemes (PPE) but not for more than 30% of the funds accumulated in the account of the fund. The possibility of creating a PPE has been provided for in the Act of Law of 20 April 2004 on employee pension plans (Dz.U. No. 116, item 1207 as amended) and constitutes an additional facultative source of pensions from the third, optional pillar of the Polish pension system.

Social Activities at the University of Szczecin (USz)

The latest ZFSS provisions at Usz entered into force on 1 January 2017 by Rector's decree No. 111/2016 of 19 December 2016.⁸ In accordance with § 3 (Florek 2008) of the regulations, eligible persons within the meaning of this law are, with exceptions created by further provisions, the following categories of persons:

- a) those employed by an employer on the basis of employment, regardless of the type and duration,
- b) pensioners/ retirees whose employment with the employer was terminated in connection with the transition to a pension /retirement under the retirement and pension provisions,
- c) persons receiving preretirement or rehabilitation benefits for which the employer was the last place of employment before the period of collection of this benefit,
- d) family members of persons referred to in points a-c who, for the purposes of determining the persons entitled, include

⁸ The full text of the provisions with appendices can be found at <http://usz.edu.pl/upload/zarz%C4%85dzenie%20nr%20111.2016%20Regulamin%20ZFSS.pdf> (access date: 07.06.2017).

- i. their own dependent children, adopted children and foster children – up to 18 years of age, and, if still educated at school – until completion of their studies, but not longer than until the age of 25,
- ii. their own dependent children, adopted children and foster children with a recognized total incapacity to work or entirely unable to live independently due to illness or requiring constant care and help from third parties in the performance of social roles and daily existence – regardless of age, after documenting the degree of disability,
- iii. spouses,
- e) until the death of the persons referred to in letters a-c, their own dependent children, adopted children and foster children provided that their income does not exceed the amount of the minimum wage and that they have not yet reached 18 years of age, if the death resulted from an accident at work within the meaning of the legislation in force,
- f) spouses of the deceased persons referred to in a-c, provided that their income does not exceed the amount of the minimum wage, if the death resulted from an accident at work within the meaning of the legislation in force.

The provisions of the social benefits fund at USz provide that each benefit from the fund shall be granted at the request of the person concerned taking into account social criteria, the basic measure of which is net income per family member. The exception is spending funds for university social facilities, primarily holiday centers, to which there must be allocated at least 5% of the resources accumulated in the fund account annually (but not more than 10%), with the proviso that at least 2% of the accumulated funds be designated to the annual upgrading of the facilities.

The resources of the social fund are administered by the employer. However, each payment from the fund requires the opinion of the Social Committee, which is a consultative body composed of representatives of all the trade union organizations operating in USz and two representatives of the employer. To ensure the independence and impartiality of the members of the Social Committee, they are guaranteed special protection against dismissal during the period in which they work on the Committee and the year after the performance has been completed. Supervision of the spending the fund's resources is performed at USz by trade unions and is also accomplished by the need to obtain the trade unions' consent to the disbursement of funds by the employer in a manner inconsistent with the position expressed by the particular trade union in the Social Committee.

The catalogue of social benefits in the ZFSS provisions at Usz is closed and provides the possibility of financing, refinancing or co-financing of

- a) vacations for adults and children (with additional financing provided for disabled children),
- b) holiday packages at the employer's social centers,
- c) hardship and periodic aid (which are available to people with the lowest income),
- d) one-time support for people who go into retirement or for disability pension,
- e) events for children,
- f) gift vouchers (especially at Christmas-time),
- g) expenditures on cultural, educational and sports and recreation activities,
- h) housing loans (e.g., for the purchase of a first apartment or a house or for the renovation or modernization of already possessed property).

Each of these benefits is regulated somewhat differently in terms of the conditions that need to be met in order to obtain it. For example, housing loans cannot be used by eligible persons

who earn an income exceeding PLN 8000 net per family member, and those who earn an income exceeding 150% of the minimum wage (in case of a single person) and 100% of the minimum wage (in other cases) are not eligible for periodic aids.

In addition, the regulations protecting the property interests of the employer provide for a whole range of mechanisms to prevent abuse by eligible persons, in particular the extraction of benefits from the social fund through fraud. These mechanisms include, for example, a requirement of detailed documentation by the applicant regarding the income of each person forming part of his household, restrictions on the use of benefits by several family members at the same time or an annual limit on the amount of individual benefits for each beneficiary.

The provisions of the ZFŚS at USz is completed, by Annex thereto – by the provisions of the Social Committee, which regulates the course of appointment, competence, scope and mode of operation of the Committee, as well as the responsibilities of its members in a transparent and detailed way.

Recapitulation

This article's analysis of the regulations of the Polish legal system regarding employers' obligation to promote the welfare of workers employers requires a short summary..

First, the aforementioned obligation arises from a statute and concerns a very large portion of employers operating in the current Polish economy. The scope of the obligation to provide social support to employees, however, is diverse and mainly dependent on the size of the employer and the sector in which it operates (the public or non-public sector).

Second, among the mandatory beneficiaries of social support, Polish legislation included a very wide range of people, including those who do not fall under the term “employee” or even “former employee”. This applies to family members of the employee and family members of the former employee who is a pensioner, which most authors have stated includes at least the spouse and children of the employee /retiree/pensioner.

Third, the term “social activities”, the provision of which the employer is obliged to provide, covers a fairly wide range of services provided for various forms of leisure, cultural and educational activities, sports and recreation, child care in nurseries, clubs for children, daily caretakers or nannies, kindergartens and other forms of preschool education, and the provision of material assistance – in kind or financial, as well as payable or non-repayable grants for housing purposes. The legislature, however, has left a great deal of freedom to employers in determining the specific manifestations of this social activity in the particular workplace, which is reflected in the social benefits fund provisions issued by the employers.

Fourth, the legislature has equipped trade unions with fairly wide powers of control in terms of not only organizing the social activities in the workplace (which is reflected in the need to have unions agree with them and with the contents of the ZFŚS provisions) but also regarding the scope of current expenditures from the social fund (Article 27 (Domańska 2001) of the Law on trade unions).

Fifth, as presented in this article, the shape of the Polish legal system seems to stem from both the socialist history of Poland as well as the impact of the Catholic Church's social doctrine on the design and interpretation of the regulations of the Constitution of the Republic of Poland and is reflected in the values that society considered worthy of protection by the standards of the legal system. The most important “carriers” of these values include the constitutional principle of a social market economy and the principle of social solidarity. Also significant is the basic principles of labor law expressed in Article 16 of the Labour Code.

Compliance with Ethical Standards

Ethical Approval This article does not contain any studies with human participants or animals performed by any of the authors.

Conflict of Interest The author is Chairman of the University Level Social Committee and the Chairman of the Rector's Committee for the Creation and Amendment of the Provisions of the Social Benefits Fund at the University of Szczecin.

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References

- Chruściel, Ł. (2015). *Social benefits fund. Comment*. Warsaw: C.H. BECK.
- Domańska, A. (2001). *The constitutional basis of the Polish system on the basis of a comparative law*. Warsaw: Sejm Publishing House.
- Florek, L. (2008). Reimbursement of incorrectly disbursed funds of the company social benefit fund. *Labour and Social Security*, 1, 21–24.
- Hajn, Z. (2000). Regulating the legal position of employee and employer and the functions of labour law. *Labour and Social Security*, 10, 2–13.
- Hanusz, A. (1984). System of financing of social activity in state-owned enterprises in 1974–1983. *Annales UMCS*, sectio G, 31, 231–250.
- Hanusz, A. (1985/1986). The beginnings of financing the company's social activity in people's Poland. *Annales UMCS*, sectio G, 32/33, 73–88.
- Hayek, F. (1988). *The fatal conceit: The errors of socialism*. Chicago: University of Chicago Press.
- Komorniczak, T. (1979). Company social activity - five years after the reform. *Staff Service*, 12, 10–12.
- Mędrala, M. (2010). *Protection function of civil litigation in labor law cases*. Warsaw: Wolters Kluwer.
- Prusinowski, P. (2016). Social benefits fund. In Z. Góral (Ed.), *Labor law library* (pp. 1–264). Warsaw: Wolters Kluwer.
- Rączka, K. (1994). Company social activity - new legal regulation. *Labour and Social Security*, 8, 12–20.
- Rawls, J. (2009). *A theory of justice*. Cambridge: Harvard University Press.
- Skapski, M. (2014). Realization of the idea of a social market economy in the Polish work system. *Journal of Law, Economics and Sociology*, 2, 109–124.
- Sobczyk, A. (2007). *Constitutional basis of corporate social activity*. In J. Stelina & A. Wypych-Żywicka (Eds.), *Man, citizen, employee. Study in the field of law. Jubilee Book dedicated to Professor Urszula Jackowiak*. Gdańsk Studies of Law, vol. XVII.
- Strzyczkowski, K. (2006). *The constitutional principle of social market economy as the basis for the creation and application of the law*. In K. Skotnicki (Ed.), *Property - systemic and legal issues. Comparison of solutions in Central and Eastern European countries*. Łódź.
- Tendera, P. (1984). *Company funds and money*. Warsaw: State Economic Publishing House.
- Wąż, P. (2007). The concept of real employer in the eye of Art. 3 LC. *Labour Law Monitor*, 3, 120–125.
- Wiktor, J. (1993). The impact of privatization on the social function of enterprises. *Studies and Materials IPiSS*, 6.
- Wojtczak, Z. (1976). Social activities in higher education institutions in the light of the regulations and opinions of the Company Councils. *Life of the College*, 9.
- Wróblewski, S. (1991). Social functions of the workplace in employee awareness (research report). *Studies and Materials IPiSS*, 15, 1–108.
- Zaradkiewicz, K. (2016). Comment to art. 20 Constitution of the Republic of Poland. In M. Safjan & L. Bosek (Eds.), *Constitution of the Republic of Poland. Comment to art. 1–86, vol. I*. Warsaw.
- Zarychta, H. (1995). Social function of enterprises in transition (in the light of legal regulations and practice). *Labour and Social Security*, 5.
- Ziemiński, Z. (1992). *About the grasp of justice*. Warsaw: Daimonion Publishing Institute.
- Żukowski, K. (1996). *Social benefits fund. Commentary to the bill*. Gdańsk: Center for Personnel Advisory and Improvement.