XVII. Anti-Crisis Shields – Special Regulations of Labour Law and Social Law to Mitigate the Negative Effects of the COVID-19 Pandemic in Poland

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1. *Introduction*

The European Commission points out that in the current epidemiological crisis, which has had a significant impact on the employing entities' and the workers' situation, it is very important to not only protect sectors that are critical to our economy, but to also protect our assets, technologies, and infrastructure and, even more importantly, we must protect jobs and workers[1]. The Member States have put in place budgetary liquidity support and other national policy measures to strengthen the capacity of national health systems and to help citizens and sectors particularly affected by the impact of the pandemic. In Poland, such solutions are primarily regulated by a range of provisions of the Act of 2 March 2020 on specific solutions relating to the prevention, counteraction and elimination of COVID-19, other infectious diseases and crisis situations caused by them[2]. The laws enacted in connection with it covered such areas as the possibility of changing the terms and conditions of employment, the employment of foreigners, the determination of the status of insured persons[3] during

1 European Commission, Jobs and Economy during Coronavirus Pandemic.

2 Consolidated text: Journal of Laws 2021, item 2095, hereafter referred to as the Anti-Crisis Law or the Shield; original title in Polish: ustawa z dnia 2 marca 2020 r. o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych.

3 It should be pointed out here that Polish social insurance (in particular pension and disability pension insurance) covers a wide range of persons performing paid work (e.g. employees, entrepreneurs [incl. self-employed persons], persons employed on the basis of civil law contracts for the provision of services, clergy), but also certain categories of persons not performing paid work (e.g. unemployed persons collecting unemployment benefits, persons collecting maternity benefits,

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an epidemic or the granting of benefits to persons who have lost their employment.

A feature of these solutions is their flexibility. The provisions of the Anti-Crisis Law, in many forms of support, provide for the authorisation of the Council of Ministers to extend the period for which subsidies may be granted. When assessing whether to extend this period and by how much, the Council of Ministers should be guided by the duration of the (epidemic) state of emergency and the effects they have caused. At the same time, considering the dynamics of solutions proposed by the legislator in this matter and the frequency of introduced changes, it would be difficult, from the authors' perspective, to include all of them. Therefore, the prepared text concerns the legal status as of 31 December 2021.

2. *Job Retention*

a) *Remote Work (Article 3 of the Anti-Crisis Law)*

Remote working is one of the modalities introduced by the Anti-Crisis Law precisely in order to fight pandemics. Remote work is understood to mean the possibility of performing employee's duties outside the employer's office, for a predetermined period. Pursuant to Article 3(1), in the period of validity of an epidemic threat or state of emergency declared due to COVID-19, and for the period of 3 months following their cancellation, to counteract COVID-19, an employer may order an employee to perform, for a specified period, work specified in the employment contract, outside the place of its regular performance (remote work). This means that the regulation currently in force was introduced for a fixed period, determined by the limits of validity of the state of epidemic risk or the epidemic state of emergency, declared due to COVID-19, and for the period of 3 months after their cancellation.

The subjective scope of competence to perform remote work is wide and, apart from employees (within the meaning of Article 2 of the Labour Code), it also includes service officers (including Police, Internal Security Agency, Central Anticorruption Bureau, Border Guard, State Fire Service, Customs and Treasury and the Prison Service).

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persons collecting social benefits in relation to care for dependent family members).

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The introduction of remote work to the Polish legal order allowed employees – for a predetermined period – to perform their duties outside the employer's office, but the choice of the place of performance of those duties should belong to the employee (most often remote work is performed from home). It is a new mode of work which currently operates alongside telework[4] and the home office[5]. For the effectiveness of work performed in this form, it is crucial that employees are prepared for it through proper training and tested procedures. However, in Poland, until the enforced isolation caused by the COVID-19 pandemic (March 2020), remote work (working from home) was rare.

The issuance of an order to an employee to perform remote work belongs to the competences of the employer and constitutes his unilateral decision. It results from the managerial competences of the employing entity (in particular Article 22 § 1 of the Labour Code, Article 100 § 1 of the Labour Code, and Article 3 of the Anti-Crisis Law). In parallel, the employer has the general power to withdraw the order to perform remote work at any time. Remote work should also correspond to the employee's skills and, as a rule, may not result in a reduction of his remuneration[6].

Remote work relates to 'work specified in the employment contract' and therefore only concerns the type of work that has been agreed on in advance by the parties[7]. This is important as certain types of activity cannot, by their very nature, be performed remotely. Pursuant to Article 3(3) of the Anti-Crisis Law, the conditions for ordering the remote work depend on the employee's skills (operation of certain ICT systems or Internet applications enabling direct contact between interlocutors), his technical possibilities (e.g., access to fast Internet) and local conditions (appropri-

4 Article 67(5) § 1 of the Labour Code.

5 The possibility for the employer to grant permission for occasional work at home is not regulated by Labour Law (in particular, it does not imply a change in the working time system in which the employee is employed) and does not require an amendment to the Labour Regulations.

6 K.W. Baran, D. Książek, W. Witoszko, Komentarz do art. 3 [w:] Komentarz do niektórych przepisów ustawy o szczególnych rozwiązaniach związanych z zapobieganiem, przeciwdziałaniem i zwalczaniem COVID-19, innych chorób zakaźnych oraz wywołanych nimi sytuacji kryzysowych [w:] Tarcza antykryzysowa 1.0 - 4.0, ustawa o dodatku solidarnościowym i inne regulacje, jako szczególne rozwiązania w prawie pracy, prawie urzędniczym i prawie ubezpieczeń społecznych związane z COVID-19. Komentarz, red. K. W. Baran, Warsaw 2020, online access LEX.

7 L. Mitrus, Remote Work de Lege Lata and de Lege Ferenda — Modification of Place of Work Performance or New Concept of an Employment Relationship? Part 1, Labour and Social Security Journal, 10/2020, p. 3.

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ate space) to perform such work, and at the same time on the question whether the type of work allows for it. On the other hand, employees who do not have the necessary skills or technical or local conditions – for example if they do not have the appropriate computer equipment at home or a home environment that allows them to maintain the standards of confidentiality of data transfer – are not obliged to undertake remote work. However, if the refusal is not justified by specific and important reasons, in particular by the lack of technical or accommodation conditions, it may be qualified as a serious breach of basic employment obligations and constitute grounds for termination of the contract by the employer without notice due to the fault of the employee. The legitimacy of the termination of the employment relationship under this procedure is always determined by the circumstances of the case.

The scope of remote work is wide. It may be carried out by means of direct remote communication or concern the performance of manufacturing parts or material services. The tools and materials needed to carry out the remote work and the logistical support for the remote work shall be provided by the employer. However, in performing remote work an employee may use tools or materials not provided by the employer, if this allows for the respect and protection of confidential information and other legally protected secrets, including business secrets or personal data, as well as information the disclosure of which could expose the employer to damage.

The provisions do not regulate the issue of controlling the place of work of an employee working remotely. Therefore, the employer should also regulate this issue in the agreement signed with the employee specifying the rules of performing remote work. However, without the employee's consent, the employer will not be able to conduct such inspection. The Anti-Crisis Law also lacks regulations concerning liability in the scope of remote performance of employees' duties. Thus, the general provisions of labour law regulating the liability of an employee will apply. Performing work in this form does not release the employer from the obligation to keep records of the employee's working time. At the employer's request, the employee performing remote work is obligated to keep records of the work performed, including in particular the description of such work, as well as the date and time of its performance. Such records are necessary for the purpose of accounting for working time, e.g., for calculating overtime or for complying with the right to rest.

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b) *Financial Support for Employers – Salaries and Contributions (Article 15g, Article 15gg, Article 15gb of the Anti-Crisis Law)*

While the possibility of introducing remote work is addressed at all employers, aid benefits are provided for entrepreneurs (certain other categories of entities[8]) who have experienced a drop in business turnover and for whom the legislator wishes to facilitate business operations and offer financial support (assuming that this may contribute to overcoming difficulties and saving at least some workplaces). The legislator has defined the scope of entities to which aid is directed in the form of benefits for the protection of workplaces and co-financing of the remuneration of employees affected by economic downtime or reduced working hours, as a result of COVID-19[9], from the resources of the Guaranteed Employee Benefits Fund. Additionally, the legislator provided for the possibility of applying to the Guaranteed Employee Benefits Fund for funds to cover social insurance contributions due from the employer. The shape of these solutions proves that their basic purpose is the protection of workplaces.

Beneficiaries of these forms of co-financing are entrepreneurs[10], non-governmental organisations[11], cultural institutions, and church legal persons. In order to benefit from these forms of aid, the legislator requires the fulfilment of several conditions. These are: existence of the entity for at least 14 months, employment of staff (or persons employed on the basis of a contract on mandate work or a contract for the provision of

8 This applies to non-governmental organisations within the meaning of Article 3(2) of the Act of 24/04/2003 on public benefit activity and voluntary work (consolidated text: Journal of Laws of 2019, item 688, as amended), entities referred to in Article 3(3) of the Act (ecclesiastical persons), and other entities. Article 3 of the Act (church persons, associations of local government units, social cooperatives, non-profit organisations operating in the form of a limited liability company and a joint stock company), state legal persons within the meaning of the Act of 27/08/2009 on public finance (uniform text: Journal of Laws of 2021, item 305, as amended).

9 Article 15g of the Anti-Crisis Law.

10 An entrepreneur is a natural person, a legal person or an organisational unit that is not a legal person but has legal capacity, performing a business activity. Entrepreneurs are also partners in a civil partnership within the scope of their business activity.

11 Non-governmental organisations are units of the public finance sector or enterprises, research institutes, banks and commercial law companies that are state or local government legal persons not operating for profit.

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services), occurrence of a fall in economic turnover[12] or a fall in income, a causation between a fall in economic turnover (or a fall in revenue) and the occurrence of COVID-19, i.e. a causation in temporal and subject-matter terms broader than the link with the effects of the introduction of an (epidemic) state of emergency and the inclusion of employees in the economic downtime or reduced working hours.

At the same time, these entities must not have been in arrears in the payment of tax liabilities, contributions to social insurance, health insurance, the Guaranteed Employee Benefits Fund, the Labour Fund or the Solidarity Fund until the end of the third quarter of 2019, i.e., until 30/09/2019 (although here the legislator has provided for exceptions) and must not have met the conditions for declaring the entity bankrupt[13].

The period of entitlement to (or payment of) benefits and other measures has been limited to three months from the month in which the application was submitted, but the Council of Ministers may extend this period.

Financial support, in the form of benefits specified in the Anti-Crisis Law, is to be paid during the period of economic downtime or reduced working hours. "Economic downtime" should be understood as a period of non-performance of work by an employee for reasons not related to the employee remaining on standby for work (a state in which the employee is physically and mentally capable of performing work, and where there are no obstacles to its performance)[14]. On the other hand, "reduced working time" should be understood as the working time of an employee reduced by the employer for reasons not related to the employee, to not more than half the working time.

An employee subject to an economic standstill is paid by the employer a remuneration reduced by no more than 50%, but not less than the amount

12 A decrease in turnover is a decrease in sales of goods or services in terms of quantity or value. Such a decline in turnover is a decline in turnover of not less than 15% when the turnover of two consecutive calendar months falling after 31/12/2019 is compared with the turnover of two corresponding months of the previous year. A decrease in turnover within the meaning of COVID-19 will also be a decrease in turnover of not less than 25% calculated by counting any month falling after 1/01/2020 within the month preceding that month. In both cases, where the comparative period starts on a day other than the first day of the month, the month is considered to be 30 consecutive calendar days.

13 See K.W. Baran, W. Bigaj, D. Książek, K. Księżyk, A. Przybyłowicz, Komentarz do art. 15g [w:] Komentarz do niektórych przepisów…, op. cit., online access LEX.

14 Article 2 of the Act of 11 October 2013 on special solutions related to the protection of workplaces, i.e. Dz. U. of 2019, item 669.

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of the minimum remuneration for work, considering the time of work. At the same time, the remuneration should be understood only as the rate of basic remuneration determined by the parties in the employment contract or other act constituting the basis for the employment relationship.

The co-financing is paid from the Guaranteed Employee Benefits Fund. It is granted in the amount of 50% of the minimum remuneration for work in 2020, considering the working time dimension, for each employee affected by the economic downtime. The amount of the co-financing is therefore PLN 1,300 per month per employee, assuming that they are employed on a full-time basis. Employees whose remuneration is higher than 300% of the average monthly remuneration are excluded from this possibility.

The remuneration of employees subject to reduced working hours is co-financed (from the Guaranteed Employee Benefits Fund) up to half of their remuneration. This payment has a more individualised dimension and is related to the remuneration of a particular employee rather than applying a lump-sum calculation of benefits. At the same time, the monthly amount of subsidy per one employee covered by the reduced working hours may not be higher than 40% of the average monthly remuneration from the previous quarter. Also, in this case there is a mechanism limiting the amount of co-financing for employees whose remuneration was higher than 300% of the average monthly remuneration.

The application for benefits is combined with the signing of a relevant agreement with the relevant provincial labour office. Pursuant to this agreement, the applicant undertakes that the employees covered by the subsidy will not be made redundant for reasons not related to the employee during the period in which the employee receives the benefits.

The legislator introduced the possibility of concluding an agreement specifying the conditions and procedure of performing work in the period of economic downtime or reduced working hours, hereinafter referred to as the "anti-pandemic agreement"[15]. It is concluded between the employer and trade unions, or employee representatives elected by employees.

A separate group of entitlements includes the possibility of reducing an employee's working hours or placing an employee on economic downtime if there is a decrease in revenue from the sale of goods or services because of COVID-19. This entitlement is dedicated to employers who meet a combination of two conditions. These are: a decrease in revenue from

15 This agreement has the status of a source of labour law within the meaning of Article 9 § 1 of the Labour Code.

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the sale of goods or services following the occurrence of COVID-19 and a significant increase in the employer's wage fund burden. The second condition must be the result of a decrease in revenue from the sale of goods or services following the occurrence of COVID-19.

Another group of beneficiaries includes entrepreneurs who have experienced a drop in economic turnover as a result of COVID-19. They can apply to the director of the respective provincial labour office for benefits to protect workplaces from the resources of the Guaranteed Employee Benefits Fund to co-finance the salaries of employees not covered by downtime or economic downtime, or reduced hours. The salaries of these employees are subsidised from the resources of the Guaranteed Employee Benefits Fund to the amount of half the salaries, but not more than 40% of the average monthly salary.

The Anti-Crisis Law has also provided for the possibility of co-financing part of the costs of remuneration of employees and social insurance contributions due from them in the event of a decrease in economic turnover. However, the granting of co-financing does not require the employed persons to be subject to economic slowdown or reduced working hours (as opposed to the previously indicated co-financing), or that an agreement is concluded. The subsidy is granted at the request of an entrepreneur by a competent starost[16], but these funds can only be used for remuneration or due social insurance contributions of an employee who was indicated in the application for subsidy and the agreement concluded on its basis. This aid is non-refundable.

The scope of entities entitled to apply for these funds is also much narrower. It has been restricted to micro-entrepreneurs and small or medium-sized enterprises. From the perspective of the protection of workplaces, what is important about this regulation is that it applies to employees as well as people employed on the basis of an employment contract, contract of mandate or other contract for the provision of services. At the same time, the entrepreneur is obliged to maintain in employment employees covered by the subsidy agreement for the period for which it was granted.

16 The starost is the chairman of the county board; he is also the employment authority to which the county employment offices report; the application for funding itself is submitted to the county employment office with jurisdiction over the location of the entrepreneur applying for funding. The costs of servicing these benefits are financed from the resources of the Labour Fund referred to in the Act of 20 April 2004 on employment promotion and labour market institutions.

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c) *Solutions for Working Foreigners (Art. 15z1, 5, 7), Art. 15zzq of the Anti-Crisis Law)*

In response to the postulates of entrepreneurs to be able to continue employing foreigners without fear of the expiry of documents legalising their work, the Anti-Crisis Law introduced significant changes to the employment of foreigners. The Anti-Crisis Law extended the validity period of work permits by law and the permissible period of work without a permit in connection with a declaration of entrusting work to a foreigner, for the duration of an epidemic emergency or an epidemic state declared in connection with SARS-CoV-2 infections and the following 30 days. This means that if the last day of validity of a work permit (including a seasonal work permit) was during an epidemic emergency or an epidemic, the period of validity of the permit was extended by law until the expiry of the 30th day following the day of cancellation of the last of the respective states. During this period, the foreigner's stay is considered legal. The above rule applies to work permits of all types and applies accordingly to the decision on the extension of the work permit (also regardless of its type). The effect of extending the validity periods of work permits and seasonal work permits, as well as the periods of permissible work on the basis of declarations on entrusting work to foreigners occurs automatically, by law.

Similarly, if in the declaration on entrusting work to a foreigner the period of work, the end of which fell within the period of an epidemic emergency or an epidemic, was indicated, a foreigner may continue to perform work for the entity that submitted the declaration in the period or periods not covered by the declaration until the expiry of the 30th day following the day of cancellation of the last of the respective conditions.

It should be emphasised that the Anti-Crisis Law does not abolish the obligation to have work permits. The conditions for issuing work permits and declarations on the commission of work remain unchanged.

During the period of legal stay, foreigners residing in the Republic of Poland on the basis of: a Schengen visa; a visa issued by another Schengen area country; a residence permit issued by another Schengen area country; an entitlement resulting from the visa-free regime; a long-term visa issued by another European Union Member State not being a Schengen area country, if, in accordance with European Union law, it entitles them to stay in the territory of the Republic of Poland; a residence permit issued by another European Union Member State that is not a Schengen State, if it entitles the holder to reside in the territory of the Republic of Poland in accordance with the provisions of European Union law – are entitled

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to perform work during their stay if they hold a valid work permit or a valid seasonal work permit. The work performed by these persons may only be the work that was indicated in the work permit or seasonal work permit obtained. These foreigners are also entitled to perform work during their stay if they have a statement on entrusting work entered into the register of statements. On the basis of the statement on entrusting work, a foreigner may perform work specified by the statement only for the entity (no possibility to change the employing entity) that submitted the statement and in circumstances specified in the entry to the register of statements.

The performance of work by a foreigner under conditions other than those specified in the documents being the basis for legal work of a foreigner is also possible under the conditions specified in Article 15z5 of the Anti-Crisis Law, in connection with the employing entity taking advantage of aid solutions. This means that changes to the permit (temporary residence and work permit, temporary residence permit for the purposes of highly qualified employment, work permit, seasonal work permit)[17] or obtaining a new permit or entering a new statement on entrusting work to a foreigner in the register of statements will not be required in the case of changing the conditions of work of a foreigner as a result of issuance by the employer of an order to perform remote work; reduction of the working time; making a change in the system or schedule of working time of employees; making an introduction of an equivalent working time system or an introduction on the basis of an agreement on the application of less favourable conditions of employment of employees than those arising from contracts of employment, within the scope and for the period determined in the agreement and changes to other conditions of employment of a foreigner.

The Anti-Crisis Law also provides for exceptions to the obligation of a foreigner to hold a work permit and the obligation to extend the work permit referred to in Article 88 of the Act of 20 April 2004 on employment promotion and labour market institutions, including the seasonal work permit. The permit is not required (or is extended accordingly) during the state of an epidemic emergency or a case of epidemic declared in relation to COVID-19 and until the 30th day following the cancellation of the state which was in force last, if a foreigner performs seasonal work and had: 1) a work permit valid after 13 March 2020 or 2) a statement on entrusting

17 I. Florczak, Komentarz do art. 15z(5) [w:] Komentarz do niektórych przepisów…, op. cit., online access LEX.

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work to a foreigner entered in the register of statements, where at least one day of the work period specified in the statement falls after 13 March 2020.

3. *Supporting the Economy*

a) *Financial Shields of the Polish Development Fund*

Thanks to the Polish Development Fund's Financial Shield (1.0 and 2.0), small and medium-sized entrepreneurs were able to obtain funding on preferential terms. The co-financing was partly non-refundable. The programme consisted of aid in the form of financial subsidies for micro-enterprises and co-financing of fixed costs not covered by revenues in the form of financial subsidies for small and medium-sized enterprises. The value of the subsidies granted depended on two factors: the number of employees and the amount of decrease in sales revenue in any month after 1 February 2020 compared to the previous month. The granting entity responsible for implementing the Financial Shield measures was the Polish Development Fund (PFR). The programme was intended to prevent a significant drop in revenue and loss of liquidity and, consequently, to reduce the risk of job losses and bankruptcy of the most affected enterprises. In other words, the solution was to ensure liquidity and financial stability during a period of serious disruption in the economy because of the COVID-19 pandemic.

b) *Suspension of the Employer's Obligations in Connection with the Establishment or Operation of the Social Fund, Basic Deductions, and Holiday Pay (Art. 15ge of the Anti-Crisis Law)*

Another solution introduced by the Anti-Crisis Law in order to protect the interests of the employer during the conditions of the coronavirus epidemic and the economic crisis caused by it is the possibility of suspending the obligation to create and operate the company social benefits fund and the obligation to pay holiday pay during the state of epidemic threat or the case of epidemic declared due to COVID-19. Article 15ge of the Anti-Crisis Law is addressed to employers within the meaning of Article 3 of the Labour Code[18] who have suffered negative financial consequences due to

18 The employer is an organisational unit (even if not a legal person) as well as a natural person if they employ workers.

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the epidemic – i.e. to those who have recorded a fall in economic turnover in the amount specified in Article 15g(9) or in the event that there has been a significant increase in the burden on the remuneration fund as referred to in Article 15gb(2)[19].

The mode of suspension of social activities will depend on whether the employer has representative company trade union organisations. If there are no trade union organisations, the employer decides on the suspension of social obligations. If there are representative trade union organisations on the employer's premises, the suspension of social obligations will take place by agreement with these trade union organisations. It should be remembered that an agreement on the suspension of obligations under the Act on the Company Social Benefits Fund is a source of labour law within the meaning of Article 9 of the Labour Code. It is therefore based on the Act and must contain provisions of a general and abstract nature which will shape the rights and obligations of employees and employers[20].

The material scope of suspension of social activity is wide. The Anti-Crisis Law allows for the suspension of the obligation to establish or operate the company social benefits fund, to make a basic write-off[21] (which is a real limitation of employers' costs) and to pay holiday benefits[22]. It should also be recognised that the suspension may cover all manifestations of the employer's social activity, or it may concern only some of them.

On the other hand, the possibility of suspending the operation of the company social benefits fund seems hardly rational and unjustified. The legislator will thus deprive employees of the possibility of obtaining social benefits, even though their social situation has significantly worsened

19 A significant increase in the burden on the remuneration fund is an increase of no less than 5% in the quotient of the costs of remuneration of employees including social security contributions in the part financed by the employer and revenues from the sale of goods and services from the same calendar month, compared to the quotient of these elements from the month preceding the month under review. At the same time, this month is indicated by the entrepreneur and must fall after 1/03/2020, but not later than the day preceding the employer's use of this entitlement.

20 K. Jaworska, Komentarz do art. 15ge [w:] Komentarz do niektórych przepisów…, op. cit., online access LEX.

21 The law defines three types of basic deductions: 1) for employees employed in normal conditions; 2) for employees employed in special conditions or performing work of a special nature – within the meaning of the provisions on bridging pensions; 3) for juvenile employees.

22 An employer with fewer than 50 full-time employees as at 1 January of a given year shall pay holiday pay once a year to each employee who takes a holiday of at least 14 consecutive calendar days in a given calendar year.

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due to the pandemic. In other words, the possibility of suspending the operation of the fund means that it is not possible to make social benefit payments to employees from funds already accumulated in the fund.

c) Provisions Facilitating the Payment of Social Insurance Contributions

The Anti-Crisis Law also introduces several support instruments on the grounds of social insurance aimed at preventing and minimising the negative consequences related to the COVID-19 pandemic. A significant part of these instruments concerns entrepreneurs employing employees, contractors, managers, and other persons in relation to whom the entrepreneurs act as payers of contributions[23].

aa) Resignation from the Prolongation Fee (Article 15zb of the Anti-Crisis Law)

Payment of social insurance contributions is one of the basic obligations of contribution payers[24]. The Polish legislator imposes administrative and criminal sanctions in the event of failure to meet this obligation. At the same time, considering various situations affecting the ability to pay contributions, the legislator also provides instruments facilitating debtors in meeting their obligations in this respect. The provisions of the Act of 13 October 1998 on the social insurance system[25] provide for facilitating the payment of contributions, consisting in the possibility to pay the dues for contributions in instalments or to postpone their payment (Article 29(1) of the Act on the Social Insurance System). The Social Insurance Institution (ZUS) may, at the debtor's request, postpone the payment deadline of dues for contributions and pay the dues in instalments – for economic or other reasons that deserve consideration. ZUS then takes into account the debtor's payment capacity and the state of the social insurance finances. It is worth noting here that the debtor's application may only concern dues for contributions financed by the payer of contributions (i.e., it may not concern dues for contributions financed from the funds of an insured per-

23 Ł. Prasołek (ed.), Pomoc dla pracodawcy w sprawach pracowniczych w dobie kryzysu. Tarcza antykryzysowa, prawo pracy, RODO, ZUS, PIT, Warsaw 2020, Beck Legalis, online access www.sip.legalis.pl 20.12.2021 r.

24 I. Sierocka, Komentarz do art. 15zb [w:] Komentarz do niektórych przepisów…, op. cit., online access LEX.

25 Consolidated text, Journal of Laws 2021, item 423 as amended.

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son who is not the payer of contributions). The amounts due for contributions include not only the social insurance contributions themselves, but also interest on arrears, enforcement costs, reminder costs and an additional fee (which may be imposed by ZUS in the event of failure to meet the obligation to pay contributions). If the application for a deferment of payment of dues for contributions or their division into instalments is granted, pursuant to Article 29(4) of the Act on the Social Insurance System, ZUS concludes an agreement with the debtor on the deferment of payment of dues for contributions or their division into instalments (a positive decision is therefore not an administrative decision, but an act of authoritative nature). Negative resolution of the debtor's request takes place exclusively by issuing a decision, against which the party is entitled to appeal to the Social Insurance Court. Pursuant to Article 29(4) of the Act on the Social Insurance System, in case of contribution receivables being paid in instalments or the payment date is postponed, the Social Insurance Institution (ZUS) determines a prolongation fee – this fee is obligatory and ZUS is obliged to calculate it. The regulation of Art. 15zb of the Anti-Crisis Law thus establishes an exception from Art. 29 Sec. 4 of the Act on the Insurance System. In view of the difficulties caused by the pandemic in fulfilling obligations, including contributions, the legislator allowed ZUS to postpone payment dates or divide liabilities into instalments without the necessity to pay the prolongation fee. However, this exception does not apply to all contribution receivables, but only to receivables in respect of contributions for the period from 1 January 2020. If the debtor's application pertains to such dues and it has been filed during the period when a state of epidemic danger or a case of epidemic is in force (the case of epidemic has been in force since 20 March 2020 and has not been cancelled as at the date of preparing this text) or during the 30 days following their cancellation, ZUS, considering the application, does not charge the prolongation fee. However, this exemption does not apply to dues which arose before 01/01/2020 (i.e. those whose emergence was not related to the COVID-19 pandemic).

bb) Abandonment of Interest for Late Payment (Article 31zy10 of the Anti-Crisis Law)

One of the above-mentioned instruments, the aim of which is to encourage insurees to pay social insurance contributions on time, is the obligation to pay interest for delays. Pursuant to Article 23(1) of the Act on the Social Insurance System, interest for late payment is payable by the

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payer of contributions on time, according to the rules and in the amount specified in the Tax Ordinance[26]. The obligation to calculate interest for late payment does not depend on the circumstances in which the arrears in contributions arise or on the intention of the parties to maintain the insurance relationship. It arises by law, regardless of whether or not the payer is aware of the arrears in the payment of contributions[27]. The interest also has a compensatory aspect – it is intended to compensate for the loss that arises as a result of the need for the Social Insurance Institution to provide funds to cover the difference between the amount of the benefits paid and the revenue obtained from contributions[28].

In the Anti-Crisis Law, the legislator provided for the possibility to waive the collection of default interest, pursuant to Article 23(1) of the Act on the Social Insurance System. Article 31zy[10](1) of the Anti-Crisis Law indicates that ZUS may, at the request of the debtor, waive the collection of default interest on dues for contributions for the period applicable after 31 December 2019, if this is justified by economic reasons related to the occurrence of COVID-19. This is possible if three conditions are met: (1) the debtor has applied for a waiver of interest on late payment during the period in which the epidemic emergency or epidemic state is in force or during the 30 days following their revocation; (2) the application relates to interest on contributions due for the period after 31/12/2019 (and, therefore, arising in connection with the pandemic); (3) economic difficulties have arisen in connection with the spread of COVID-19 (e.g. difficulties in selling goods or services, restriction of activities due to the declaration of an epidemic emergency or epidemic state).

The debtor's application binds ZUS, which only 'may' waive the collection of interest. When issuing a refusal decision, ZUS must indicate the reasons which guided its decision, which excludes the arbitrariness of decisions taken in this respect. The payer of contributions is entitled to apply to the President of the Social Insurance Institution (ZUS) for reconsideration of the case pursuant to the rules applicable to a decision issued by a minister in the first instance and to lodge a complaint with an administrative court against the decision issued by the President of the Social Insurance Institution (ZUS).

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26 Act of 29 August 1997 – Tax Ordinance, consolidated text, Journal of Laws 2021, item 1540 as amended.

27 I. Sierocka, Komentarz do art. 31zy(10) [w:] Komentarz do niektórych przepisów…, op. cit., online access LEX.

28 See M. Łabanowski [w:] Ustawa o systemie ubezpieczeń społecznych. Komentarz, ed. J. Wantoch-Rekowski, Toruń–Warsaw 2007, p. 192.

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d) Exemption from the Obligation to Pay Contributions (Articles 31zo-31zy of the Anti-Crisis Law)

The introduction of the possibility of exemption from the obligation to pay social and health insurance contributions[29] (as well as other funds to which contributions are paid from the salaries of insured persons) was one of the main forms of support that the legislator introduced in connection with the negative impact of COVID-19 on the economy in terms of social insurance. Indeed, preventing the spread of the virus required extraordinary measures, such as closing down entire sectors of the economy (banning certain types of business). In practice, many entrepreneurs lost their ability to operate and earn income. However, labour legislation required them to pay their employees, and social security, health insurance and other fund contributions had to be paid on salaries.

The exemption from the obligation to pay social and health insurance contributions is regulated in the provisions of Articles 31zo-31zy of the Anti-Crisis Law. The provisions specify several groups of entities which may benefit from such an exemption:

- payers of contributions who, during the periods indicated in the Act, reported less than 10 insured persons to social insurance[30] In the case of these payers, the exemption covered 100% of contributions due for the period from 1 March 2020 to 31 May 2020. The same exemption was extended to social cooperatives (regardless of how many persons they reported for insurance);
- payers of contributions who, during the periods specified in the Act, reported to social insurance at least 10, but no more than 49 insured persons. The exemption covered 50% of contributions due for the period from 1 March 2020 to 31 May 2020;
- persons conducting non-agricultural activity (in practice, mainly entrepreneurs) paying contributions exclusively for their own social insurance or health insurance. The exemption covered 100% of the contri-

29 It has been pointed out in the literature that, in fact, this is a case of remission of dues for contributions, but on different terms than those set out in the Act on the social insurance system – M. Pogonowski, Zwolnienie z obowiązku opłacenia składek na podstawie tarczyza antykryzysowej na tle poprzednio obowiązujących rozwiązań dotyczących umorzenia składek, Labour and Social Security Journal, 10/2020, p. 38.

30 E.g., employees, but also persons performing work on a basis other than employment (e.g., contractors, i.e. persons performing work on the basis of civil law contracts) were included.

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butions due for the period from 1 March 2020 to 31 May 2020. The possibility to benefit from this exemption was initially limited only to those persons whose income from this activity in the first month for which the application for exemption from the payment of contributions is submitted was not higher than 300% of the projected average monthly gross remuneration in 2020 (that is, PLN 15,581). For the period from 1 April 2020 to 31 May 2020, the exemption could also cover those persons running non-agricultural activity who exceeded the indicated income amount[31], provided that their income did not exceed PLN 7,000;

– clergy persons, for whom the exemption covered 100% of the contributions due for the period from 1 March 2020 to 31 May 2020; these persons did not have to meet any additional conditions[32].

Additionally, the possibility of exemption from the obligation to pay contributions for subsequent periods was provided for in the course of subsequent amendments to the Anti-Crisis Law. It was possible to exempt from the obligation to pay contributions for November 2020 those entities (mainly entrepreneurs) that were affected by the next lockdown. These entities could obtain an exemption from contributions if the revenue from their activity obtained in November 2020 was at least 40% lower than the revenue obtained in November 2019. The exemption applied to those entities whose predominant object of activity was explicitly indicated in Article 31zo(10) of the Anti-Crisis Law (e.g. catering activities, activities of tour guides, activities of cinemas, theatres, operas). However, with regard to entities whose predominant activity consisted in running school shops, the exemption from contributions covered the period from 1 November 2020 to 30 March 2021, provided that the revenue from that activity was at least 40% lower in November 2020, December 2020, January 2021, February 2021 or March 2021 in relation to the revenue obtained in September 2019 or September 2020. On the other hand, considering the prolongation of lockdowns in particular sectors of the economy, the legislator authorised the Council of Ministers through the Anti-Crisis Law to determine, by way of a regulation, other periods of exemption for unpaid contributions, for all or certain payers of contributions who were entitled to exemption for unpaid contributions under Article 31zo Para. 1-3, or to extend this

31 Income is revenue minus deductible expenses.

32 M. J. Zieliński, Szczególne rozwiązania w prawie pracy i prawie zabezpieczenia społecznego wprowadzone w związku z pandemią COVID-19. Zagadnienia ogólne, Labour and Social Security Journal, 5/2020, p. 16.

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exemption to other payers of contributions, having regard to the duration of the state of epidemic emergency or the case of epidemic, the effects caused by them, the restrictions on business activity resulting from these states and the areas of economic and social life particularly affected by the consequences of COVID-19. Such regulation was issued on 26 February 2021 and provided for further exemptions for selected groups of payers for the periods specified therein[33].

The legislator specified the time limits within which applications for exemption from the obligation to pay contributions had to be submitted. The set deadlines were substantive law deadlines and could not be restored[34]. In the case of requirements related to achieving a specific income or revenue, ZUS relied on the applicants' declarations. An appropriate verification system was provided for. ZUS provided the tax authorities with information on the revenue/income declared by the applicants, and the authorities were obliged to inform ZUS in case of any discrepancies between the revenue or income declared in the application for exemption from paying contributions and the revenue or income declared for tax purposes.

It is worth noting that the exemption from the obligation to pay social and health insurance contributions covered not only the part of the contribution financed by the payer, but also by the insured person[35]. Therefore, in accordance with the provisions of the Act on the Social Insurance System, the payer deducted contributions from the employee's remuneration, but did not transfer them to the Social Insurance Institution, which can also be described as a special kind of financial assistance directed to the payers of contributions. Such a solution did not and will not in the future have a negative impact on the right to social insurance benefits or their amount. The legislator clearly indicated that contributions which were exempted from the obligation to be paid are treated as paid contributions.[36]

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33 Regulation of the Council of Ministers of 26 February 2021 on the support of economic participants affected by the COVID-19 pandemic.

34 K. Jaworska, Komentarz do art. 31zp [w:] Komentarz do niektórych przepisów…, op. cit., online access LEX.

35 For example, in Poland the pension insurance contribution is paid in equal parts by the employer and the employee.

36 This significantly differentiates the institution of exemption from the obligation to pay contributions from the "classic" cancellation of dues for contributions. In the latter case, the redeemed contributions are not treated as paid contributions, see M. Pogonowski, Zwolnienie z obowiązku..., op.cit., p. 39.

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e) Special Cash Benefits for Entrepreneurs and Contractors

aa) Standstill Benefit[37] (Article 15zq et seq. of the Anti-Crisis Law)

The Standstill Benefit is one of the forms of assistance introduced in connection with the epidemic condition, for entrepreneurs and persons performing work based on a civil law contract. Pursuant to Article 15zq(1) of the Anti-Crisis Law, this benefit is available to persons conducting non-agricultural business activity on the basis of the provisions of the Act of 6 March 2018 (Entrepreneurs' Law) or other specific provisions and persons performing an agency contract, a contract of mandate, another contract for the provision of services to which, in accordance with the Act of 23 April 1964 (Civil Code) to which, in accordance with the Act of 23 April 1964, the provisions on mandate apply, or a contract for specific work if persons involved are not subject to social insurance under any other title.

While employees were entitled to demotion pay for the downtime caused by the pandemic under labour law, entrepreneurs and persons employed under civil law contracts are not entitled to such benefits. For them, not working due to lockdown meant losing their source of livelihood. They were therefore particularly exposed to the instability or even total loss of income due to the COVID-19 pandemic, due to the lack of orders, or the cancellation of ongoing or concluded contracts[38]. The purpose of the Standstill Benefit was therefore to provide social security by granting ad hoc financial support[39]. Entrepreneurs were entitled to this benefit if they met the following conditions:

– they did not suspend their non-agricultural economic activity, and income from non-agricultural economic activity obtained in the month preceding the month of filing an application for a Standstill Benefit was at least 15% lower than the income obtained in the month preceding that month, or if they suspended their non-agricultural economic activity after 31 January 2020;

37 Standstill Benefit is a form of financial support paid due to business downtime.

38 M. Barański, Komentarz do art. 15zq [w:] Komentarz do niektórych przepisów…, op. cit., online access LEX.

39 J. Szyjewska-Bagińska, Świadczenie postojowe jako element techniki socjalnego wsparcia w zabezpieczeniu społecznym, Ubezpieczenia Społeczne. Teoria i Praktyka, No. 3/2020, p. 2.

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– they were not subject to social insurance on account of a title other than running a non-agricultural business activity within the meaning of Article 8(6) of the Act on the Social Insurance System.

  In turn, persons performing work based on civil law contracts were entitled to this benefit if they fulfilled the following conditions jointly:
– the civil law contract was concluded before 1 April 2020;
– the revenue from the civil law contract obtained in the month preceding the month in which the application for the Standstill Benefit was submitted was not higher than 300% of the average monthly salary from the previous quarter;
– they were not subject to social insurance on another account.

This benefit is equal to 80% of the amount of the minimum wage applicable in 2020 (then it was PLN 2,080)[40]. Originally, it was to be granted no more than three times. However, due to the prolonged lockdown in certain sectors of the economy, additional Standstill Benefits for entrepreneurs were introduced, which could be paid out one, two, four or even five times – depending on the sector in which the entrepreneur was active. Additional Standstill Benefits were regulated in the aforementioned regulation of the Council of Ministers of 26 February 2021 on support for economic participants affected by the COVID-19 pandemic. It also specifies additional conditions to be met by an entrepreneur to obtain an additional Standstill Benefit (a specific decrease in revenue from the business).

The Standstill Benefits were and are paid and granted at the request of entitled persons (in the case of entrepreneurs) or at the request of a contracting party (in the case of contractors and persons performing a work contract, the application was submitted by a principal or a contracting person). Applications for benefits may be submitted no later than within 3 months of the month in which the epidemic state is declared to be over. The handling of the benefits was entrusted to the Social Insurance Institution (ZUS), although it should be emphasised that they were not social insurance benefits[41] (which is clearly discernable in the case of persons performing paid work under contracts for specific work who are not subject to social insurance in Poland at all, but who could acquire the right to the benefit). The benefits are financed from the state budget.

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40 The law also provided for certain exceptions (in some cases it amounted to PLN 1,300).

41 J. Szyjewska-Bagińska, Świadczenie postojowe…, op. cit., p. 2; Autorka ta świadczenie postojowe zalicza do świadczeń socjalnego wsparcia (ibidem, pp. 12-13).

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bb) Compensation for Business Expenses (Article 15zzc of the Anti-Crisis Law)

Another instrument of support is granted to self-employed persons. This term, within the meaning of Polish labour law, refers to natural persons who carry out a business activity, but who do not employ any persons in this activity. These persons could be granted co-financing of part of the costs of running a business in the event of a drop in business turnover following the occurrence of COVID-19. Co-financing could be granted in the amount of 50%, 70% or 90% of the minimum wage, depending on how high the drop in turnover was. It could be paid for no more than 3 months. The subsidy could be granted under an agreement concluded with the starost and was paid in monthly instalments. The self-employed person was also obliged to conduct business activity for the period for which the subsidy was granted, under pain of the obligation to return the subsidy. Also, regarding this instrument of support, the legislator authorised the Council of Ministers to extend the three-month period of subsidy; however, the Council of Ministers did not use its vested competence.

cc) Loan for Micro-Entrepreneurs (Article 15zzd of the Anti-Crisis Law)

Loans were an instrument addressed solely at micro-entrepreneurs[42]. They could, based on an agreement concluded with a starost, receive a one-off loan from the Labour Fund to cover current costs of running a business in order to compensate the negative effects of the COVID-19 pandemic. The loan could be granted up to the amount of PLN 5,000 (in practice, it was granted to all applicants in this amount), on application submitted to a Poviat Labour Office[43] competent for the location of the entrepreneur. The loans were granted without any additional conditions, including that the micro-entrepreneur did not have to demonstrate any decrease in income or revenue. The loan repayment period could not be longer than 12

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42 A micro-entrepreneur is an entrepreneur who, in at least one of the last two financial years, jointly fulfilled the following conditions:
a) employed on average less than 10 employees and
b) achieved an annual net turnover from sales of goods, products, and services as well as from financial operations not exceeding the PLN equivalent of EUR 2 million; or the sum of the assets of its balance sheet drawn up at the end of one of those years did not exceed the PLN equivalent of EUR 2 million.

43 A Poviat is the second-level unit of local government and administration in Poland, equivalent to a county, district or prefecture in other countries.

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months, with grace in repayment of the principal of loan and interest for 3 months from the date of granting the loan. It should be noted, however, that for most borrowers the loan was non-refundable, as in accordance with Article 15zzd Paragraph 7 of the Anti-Crisis Law, the loan with interest was subject to cancellation if the micro-entrepreneur conducted business activity for a period of 3 months from the date of being granted the loan.

dd) Financial Support for Micro- and Small Enterprises (Article 15zze4 of the Anti-Crisis Law)

Grants for micro- and small entrepreneurs[44] were an instrument similar to loans. Subsidies were granted by starosts, based on agreements concluded with entrepreneurs, from the resources of the Labour Fund to cover the current costs of business activity to prevent the negative effects of the COVID-19 pandemic. The subsidy could be granted only to micro- and small entrepreneurs conducting activity in certain branches of the economy, specified in Article 15zze4 of the Anti-Crisis Law. The condition for the grant was a decrease in revenue, namely that the revenue from this activity obtained in October or November 2020 was at least 40% lower than the revenue obtained in October or November 2019, respectively. The subsidy could be granted up to the amount of PLN 5,000 and was non-refundable, unless the entrepreneur did not carry out any economic activity for a period of 3 months from the date of being granted the subsidy (in that case he was obliged to return it). In addition, in the regulation of the Council of Ministers of 26 February 2021 on support for business participants affected by the COVID-19 pandemic, additional subsidies were provided for groups of entrepreneurs specified in the regulation (depending on the type of activity of a given entrepreneur and a decrease in revenue from business activity, subsidies could be granted even

44 A small entrepreneur is an entrepreneur who, in at least one of the last two financial years, fulfilled jointly the following conditions:
a) employed less than 50 employees on average per year and
b) achieved an annual net turnover from sales of goods, products, and services as well as from financial operations not exceeding the PLN equivalent of EUR 10 million, or the sum of the assets of its balance sheet drawn up at the end of one of those years did not exceed the PLN equivalent of EUR 10 million
c) is not a micro-entrepreneur.

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several times, and the deadline for submitting applications was set for 31 August 2021).

4. Social Protection

a) Increase in Unemployment Benefit (Article 15 of the Solidarity Allowance Act)

Pursuant to Article 15 of the Solidarity Allowance Act, the provisions of the Act of 20 April 2004 on employment promotion and labour market institutions[45] were also amended. The main change concerned an increase in the amount of unemployment benefit. As a result of the amendment, as from 1 September 2020, the basic amount of the benefit has been PLN 1,200 per month for the first 90 days of drawing the benefit and PLN 942.30 per month for subsequent days of drawing the benefit (as compared to PLN 823.60 and PLN 646.30, respectively, before the amendment)[46]. It should be noted that in Poland, unemployment benefits are granted to unemployed persons who fulfil the requirements set out in the Act.

b) Sickness Benefit in the Case of Quarantine/Isolation

Sickness benefit is a sickness insurance benefit which is due to insured persons who are unable to work due to illness[47], if they meet the conditions specified in the provisions of the Act of 25 June 1999 on cash benefits from social insurance in the event of sickness and maternity[48]. However, measures to prevent the spread of COVID-19 often required the isolation not only of persons infected with coronavirus (often showing no symptoms of the disease), but also of persons who had been exposed to the infection through contact with a person who had tested positive for coronavirus. These persons were initially sent to quarantine (persons suspected of being

45 Consolidated text, Journal of Laws 2019, item 1482, as amended.
46 The regulations also provide for a so-called increased benefit (120%) and a reduced benefit (80%), depending on the length of service entitling to the benefit.
47 R. Babińska-Górecka, Zasiłek chorobowy [w:] Wielka Encyklopedia Prawa. Tom XII. Prawo socjalne, ed. H. Szurgacz, Warsaw 2017, pp. 386-388.
48 Consolidated text. Journal of Laws. 2021, item 1133 as amended, hereinafter referred to as the Benefit Act.

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infected because of contact with an infected person[49]) or isolation (persons who tested positive) by decision of the health authorities before automatic quarantine and isolation arrangements were introduced. In this situation, doubts have arisen as to whether these persons are entitled to sickness benefits (sick pay under labour legislation and sick pay from social insurance). The provisions of the Benefit Act provided for the right to sickness benefit in a situation where an insured person could not perform work as a result of a decision issued by a competent authority. For the avoidance of doubt, a provision has been added to this Act, according to which the right to sickness benefit is also granted to an insured person who cannot perform work as a result of being subjected to the obligation of quarantine, home isolation or isolation referred to in the provisions on prevention and elimination of infections and infectious diseases in humans, also in the case where the quarantine or isolation resulted directly from the provisions of the law and not from a decision of the sanitary authorities. As a rule, this benefit is equal to 80% of the average monthly remuneration of a given insured person. The Anti-Crisis Law has also introduced an increased sickness benefit during the period of an epidemic threat or epidemic state for medical professionals (100%) employed in medical entities.

It is also worth mentioning that in December 2020, provisions of Articles 4ha and 4hb were added to the Anti-Crisis Law, which introduced the possibility for persons in home isolation or quarantine to work remotely if the employer agreed to such work.

c) Additional Care Allowances related to the Closure of Educational Institutions (Article 4, 4a, 4d of the Anti-Crisis Law)

The Anti-Crisis Law also provided special cash benefits for parents or guardians of children in connection with the closure of a crèche, children's club, kindergarten, school or other institution attended by a child, or with the inability to be provided care by a nanny or day care provider due to COVID-19. The insured parent/guardian of a child was then forced to stay at home to care for the child, which made it impossible to perform work (unless they provided remote work). Although the Benefit Act provides for a care allowance in the event of the closure of the above-mentioned

49 As well as persons staying in compulsory quarantine in connection with crossing the border of the Republic of Poland – see K. Piwowarska, Benefits due to COVID-19, Monitor Prawa Pracy, No. 11/2020, p. 22.

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facilities or the nanny's illness, it is only available for the care of a child up to the age of 8 and for a maximum of 60 days per calendar year. The ongoing epidemic and the necessity to close schools for many months resulted in Article 4 of the Anti-Crisis Law introducing an additional care allowance which parents were entitled to due to the closure of schools until 28 June 2020, regardless of the age of the child (until the end of the 2019/2020 school year). It was payable in the amount specified in the provisions of the Allowance Act (80% of the average monthly salary of the insured person concerned) to one of the parents/guardians. The period of drawing the supplementary care allowance was not included in the 60-day allowance period referred to in the Benefit Act[50].

Under the amended legislation, the right to the additional care allowance was also granted to officers of the Police, the State Fire Service, and other services as well as farmers.[51] In addition, the right to additional care allowance has been granted to guardians of adults with disabilities in the event of a COVID-19-related closure of schools, revalidation and education centres, support centres, occupational therapy workshops or other day-care centres of a similar character attended by a person with disabilities.

d) Solidarity Allowance

By way of the Act of 19 June 2020 on the solidarity allowance granted to counteract the negative effects of the COVID-19 pandemic[52] special financial support was introduced for persons who had lost their source of income (work) due to the economic situation caused by the COVID-19 crisis, referred to as the Solidarity Allowance. This benefit entitled beneficiaries to PLN 1,400 per month from 1 June to 31 August 2020. Persons who met the following cumulative conditions were entitled to it:

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50 That is why it is described as 'additional' - M. J. Zieliński, Szczególne rozwiązania..., op. cit., p. 14.

51 The Polish system of common social insurance does not cover farmers, who have special arrangements referred to as "agricultural social insurance"; the regulations concerning farmers do not provide for a care allowance – which is available to insured persons in the common social insurance system. The benefit for farmers was financed from the state budget funds – see D. Wajda, Świadczenia socjalne finansowane ze środków publicznych w związku z epidemią COVID-19, Labour and Social Security Journal, 5/2020, p. 60.

52 Journal of Laws. 2020, item 1068 as amended, hereinafter referred to as the Solidarity Allowance Act.

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- they were subject to social insurance under an employment contract for a total period of at least 60 days in 2020;
- the employer, after 15 March 2020, terminated the employment contract by notice, or the employment contract was terminated at the end of the period for which it was concluded, after 15 March 2020;
- the person is not subject to social insurance, farmers' social insurance or health insurance during the period of receipt of the allowance (although certain exceptions were provided for in relation to health insurance).

Determination of entitlement to the Solidarity Allowance takes place at the request of the entitled person, submitted to the Social Insurance Institution (ZUS) no later than 31 August 2020, although this benefit too, like the Standstill Benefit, is not a social insurance benefit. The Social Insurance Institution informs the entitled person about granting the allowance or issues a decision refusing to grant it (in the latter case, the decision could be appealed to the Social Insurance Court). These benefits were financed from the Labour Fund, and persons receiving Solidarity Allowance were subject to retirement and disability insurance on this account. Contributions to these insurances were financed from the state budget.

5. *Conclusion*

In conclusion, the Polish legislator reacted very quickly to the problems related to the spreading COVID-19 pandemic. The first law was passed as early as 2 March 2020, and the first significant amendment, providing for several solutions presented in this study, already entered into force on 31 March 2020 (on the day of enactment), i.e. only 2 weeks after the introduction of the epidemic state and of lockdown. The proposed solutions met social expectations – they introduced a number of support benefits for persons who lost their jobs or were unable to work due to the closure of certain sectors of the economy, and granted financial support to entrepreneurs, including loans, subsidies, exemptions from the obligation to pay social insurance contributions, facilities in the organisation of remote work, financial support aimed at maintaining jobs (subsidies to salaries and social insurance contributions).

The solutions undertaken in the area of broadly understood labour law were therefore aimed at protecting life and health, but also at mitigating

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the dramatic consequences of the pandemic for economic life[53]. As subsequent months have shown, the solutions adopted have to a large extent fulfilled their role; above all, they have succeeded in preventing a sharp rise in unemployment[54]. Unfortunately, the speed of the changes introduced has repeatedly reflected the poor quality of the detailed legislative solutions[55] creating problems of interpretation which have required rapid, successive amendments. Most of the regulations introduced were and are of a transitional nature related to the crisis caused by the pandemic[56], and some of them have already ceased to be in force. It seems that only some of the solutions may also be applicable in the future – in the area of labour law and social law, this mainly concerns remote working. The epidemic has also resulted in an accelerated digitalisation of state institutions, including the Social Insurance Institution.

53 Ł. Pisarczyk, Prawo pracy wobec kryzysu, Państwo i Prawo, No. 12/2020, p. 73.

54 Although there was great concern in this regard at the beginning of the pandemic, see S. Adamczyk, B. Surdykowska, The Economy and the World of Work Enter Uncharted Land. Some Preliminary Reflections around the Development of the COVID-19 Pandemic, Labour Law Monitor, No. 4/2020, p. 9.

55 D. Wajda, Świadczenia socjalne…, op. cit., p. 62.

56 K. Walczak, Kilka uwag na temat zatrudnienia w dobie pandemii i po jej zakończeniu, Monitor Prawa Pracy, No. 6/2020, p. 9.

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