

THE LABOR LAW ISSUES IN THE TREATIES OF FRIENDSHIP AND COOPERATION MADE BY POLAND WITH THE WESTERN EUROPEAN COUNTRIES AFTER 1989

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Summary. The Labor Law issues constitute a subject of the numerous bilateral and multilateral treaties. They have an important role in the system of Labor Law sources. In regard to the bilateral treaties, Treaties of Friendship and Cooperation (so called political treaties) play significant role, not only because they reflect the priorities of one state's foreign policy through definition of its territorial scope of interest, but also they indicate the areas of the particular interests of the parties. Poland, after the transformations of 1989–1990, entered into this type of treaties with the former socialist republics of the Central and Southern Europe established after the USSR dissolution, and – what constituted a novelty in Polish treaty policy – with the Western European states (France, Spain, Germany and Italy), and also with the countries included in this group for the political, not geographical reason: Greece and Turkey. Analysis of these treaties shows that the most of the labor references were used in the political treaty with a neighboring state, Germany. What is more, this field of cooperation was given its adequate rank and significance. Favorable solutions have been included in the treaties with Greece, Spain and Italy. The least consideration for the labor issues was given in the treaty with Turkey, as it includes only one provision, similar to the treaties with the other states, that deals with supporting the direct contacts among the trade unions.

Key words: Treaties of Friendship and Cooperation, political treaties, Polish treaty policy, international sources of Labor Law, international agreements, trade unions, personnel trainings, social security, international agreements dealing with labor issues

1. INTRODUCTION

The Labor Law issues constitute a subject of the numerous bilateral and multilateral treaties. They have an important role in the system of Labor Law sources [Florek 2000, 61n.; Tomaszewska 2018, 70n.]. There are usually three groups of treaties that deal with the labor issues: treaties concerning individual and collective labor relations (they include so called international standards that set the minimal level of employees' rights and employees' guarantees and freedoms); treaties that deal with the employment of the Polish citizens abroad

and the foreign citizens in Poland; and also treaties that include regulations on conflicts of laws for the Labor Law [Florek 2002, 3–4]. It is important to note this categorization is in no way separable since a single international agreement may include the provisions from the different categories [ibidem, 4].

The governmental transformations in Poland and in the other countries of Central and Eastern Europe initiated at the turn of 1989–1990 [Mikucka–Wójtowicz 2015, 23n.; Trembicka 2005, 41n.],¹ had significant impact on the different aspects of social life as they “allowed to engage in the authentic social dialogue, while at the same time forced to revise the role of a state and its established laws” [Pisarczyk 2015, 72], including on the process of transformation of the Labor Law system [ibidem]. They also influenced Polish foreign policy, including the process of entering into international agreements [Szafarz 2003, 5; Kukułka 1998, 7]. At the time “a new series of good neighborliness (sometimes), friendship and cooperation treaties” [Szafarz 2004, 5] also called the political treaties [ibidem; Frankowska 1997, 42; Nahlik 1967, 199–200, 203–204] have emerged. It is important to know that Treaties of Friendship and Cooperation have a special place in the states’ treaties relations since they reflect the priorities of states’ foreign policy through the definition of the states’ territorial scope of interests and through the indication of the parties’ particular interest areas [Przyborowska–Klimczak and Staszewski 2005, 5].

After 1989 Poland signed the Treaties of Friendship and Cooperation² with the Western European countries (i.e. with France of 9 April 1991,³ with Spain of 26 October 1992,⁴ with Germany of 17 June 1991,⁵ with Italy of 11 October 1991;⁶ and with the countries included in this group for the political, not geographical reason: with Greece of 12 June 1996⁷ and with Turkey of 3 November 1993⁸); and also with the former socialist republics of Central and

¹ For interesting discussion on the governmental transformation and its impact on the economic transformation see Józwick 2016, 50n.

² Texts of the Treaties of Friendship and Cooperation were published in: Przyborowska–Klimczak and Staszewski 2005.

³ Treaty of Friendship and Solidarity between the Republic of Poland and the French Republic, Paris, 9 April 1991, Journal of Laws of 1992, No. 81, item 415.

⁴ Treaty of Friendship and Cooperation between the Republic of Poland and the Kingdom of Spain, Madrid, 26 October 1992, Journal of Laws of 1995, No. 18, item 84.

⁵ Treaty between the Republic of Poland and the Federal Republic of Germany of Good-Neighborliness and Friendly Cooperation, Bonn, 17 June 1991, Journal of Laws of 1992, No. 14, item 56.

⁶ Treaty of Friendship and Cooperation between the Republic of Poland and the Italian Republic, Warsaw, 11 October 1991, Journal of Laws of 1996, No. 52, item 226.

⁷ Treaty on Friendship and Cooperation between the Republic of Poland and the Hellenic Republic, Athens, 12 June 1996, Journal of Laws of 1998, No. 129, item 852.

⁸ Treaty of Friendship and Cooperation between the Republic of Poland and the Republic of Turkey, Warsaw, 3 November 1993, Journal of Laws of 1995, No. 118, item 566.

Southern Europe (with Bulgaria of 25 February 1993,⁹ with Czechoslovakia of 6 October 1991,¹⁰ Romania of 25 January 1993¹¹ and with Hungary of 6 October 1991¹²); and also with the former socialist republics established after the Soviet Union dissolution (with Belarus of 23 June 1992,¹³ Estonia of 2 July 1992,¹⁴ Georgia of 20 April 1993,¹⁵ Lithuania of 26 April 1994,¹⁶ Latvia

⁹ Agreement between the Republic of Poland the Republic of Bulgaria on Friendly Relations and Cooperation, Warsaw, 25 February 1993, Journal of Laws No. 118, item 529.

¹⁰ Agreement between the Republic of Poland and the Czech and Slovak Federative Republic on Good-Neighborliness, Solidarity and Friendly Cooperation, Cracow, 6 October 1991, Journal of Laws No. 59, item 296. This treaty is binding in Polish-Czech and Polish-Slovak relations since Czech and Slovakia, established after the dissolution of the Czech and Slovak Federative Republic are successors to this agreement [Przyborowska-Klimczak and Staszewski 2005, 6–7]. Treaties relations with the new neighbors were regulated in: Protocol between the Government of the Republic of Poland and the Government of the Czech Republic on Succession of Bilateral Agreements and Overview of the Treaties System between the Republic of Poland and the Czech Republic, Warsaw, 29 March 1996 and Protocol between the Government of the Republic of Poland and the Government of Slovakia concerning the Binding Force of the Bilateral Agreements in Polish-Slovak relations between Poland (the Republic of Poland, the People's Republic of Poland) and Czechoslovakia (the Czechoslovak Republic, the Czechoslovak Socialist Republic, the Czech and Slovak Federative Republic) made in years of 1918–1992, Bratislava, 8 July 1993. Texts of the both agreements: Przyborowska-Klimczak and Staszewski 1998, 85–87, 117–19.

¹¹ Treaty between the Republic of Poland and Romania on Friendly Relations and Cooperation, Bucharest, 25 January 1993, Journal of Laws of 1994, No. 29, item 106.

¹² Agreement between the Republic of Poland and the Republic of Hungary on Friendly and Good-Neighborly Cooperation, Cracow, 6 October 1991, Journal of Laws of 1992, No. 59, item 298.

¹³ Treaty between the Republic of Poland and the Republic of Belarus on Good-Neighborliness and Friendly Cooperation, Warsaw, 23 June 1992, Journal of Laws of 1993, No. 118, item 527.

¹⁴ Treaty between the Republic of Poland and the Republic of Estonia on Friendly Cooperation and Baltic Good-Neighborliness, Tallinn, 2 July 1992, Journal of Laws of 1993, No. 121, item 536.

¹⁵ Treaty of Friendship and Cooperation between the Republic of Poland and the Republic of Georgia, Tbilisi, 20 April 1993, Journal of Laws of 2000, No. 2, item 7.

¹⁶ Treaty between the Republic of Poland and the Republic of Lithuania on Friendly Relations and Good-Neighborly Cooperation, Vilnius, 26 April 1994, Journal of Laws of 1995, No. 15, item 71.

of 1 July 1992,¹⁷ Moldova of 15 November 1994,¹⁸ Russia of 22 May 1992,¹⁹ Ukraine of 18 May 1992,²⁰ and with Uzbekistan of 1 January 1995²¹).

According to R. Szafarz, the Treaties of Friendship and Cooperation made by Poland with the Western European countries constitute a relevant novelty in Polish treaties practice after the governmental transformations [Szafarz 2004, 7]. During the People's Republic, Poland entered into these types of agreements only with so called people's democratic countries.²²

The purpose of this article is to answer whether the Treaties of Friendship and Cooperation made by Poland after 1989 with the Western European countries included any Labor Law provisions that could be treated as a sign of states' common interest and cooperation in this area, and if these regulations were granted the proper rank.

2. FIRST POLITICAL TREATIES WITH THE WESTERN EUROPEAN COUNTRIES AFTER 1989

The first Western European country to sign a Treaty of Friendship and Cooperation with Poland was France,²³ a state that – as it is pointed out in the scholars' works – “has always been and continues to be a significant partner in the political, economic, cultural and scientific cooperation” [Parzymies 2002, 163; Skubiszewski 1993, 20]. Consequently, the aim of the Treaty was to develop traditional friendship relations and to strengthen cooperation in the area of politics, economy and culture.²⁴ The states agreed to support the development of economic and financial relations between them and those provisions were given priority in the bilateral cooperation and in the prospect of building the united Europe (Art. 5, para. 1). The areas with the special importance to the parties that have been highlighted in Art. 5, para. 3 were: telecommu-

¹⁷ Treaty between the Republic of Poland and the Republic of Latvia on Friendship and Cooperation, Riga, 1 July 1992, Journal of Laws of 1993, No. 114, item 502.

¹⁸ Treaty between the Republic of Poland and the Republic of Moldova on Friendship and Cooperation, Warsaw, 15 November 1994, Journal of Laws of 1996, No. 76, item 363.

¹⁹ Treaty between the Republic of Poland and the Russian Federation on Friendly and Good-Neighborly Cooperation, Moscow, 22 May 1992, Journal of Laws of 1993, No. 61, item 291.

²⁰ Treaty between the Republic of Poland and the Ukraine on Good-Neighborliness, Friendly Relations and Cooperation, Warsaw, 18 May 1992, Journal of Laws of 1993, No. 125, item 573.

²¹ Treaty of Friendship and Cooperation between the Republic of Poland and the Republic of Uzbekistan, Warsaw, 11 January 1995, Journal of Laws of 1996, No. 26, item 115.

²² Poland has entered into political treaties with Bulgaria, Czechoslovakia, Yugoslavia, Mongolia, the Democratic Republic of Germany, Romania, Hungary, the Soviet Union [Tyranowski 1972].

²³ In accordance with Art. 12, para. 1 the treaty entered into force on 7 November 1992.

²⁴ See: The Preamble of the Treaty with France.

nication, transportation, infrastructure, environmental protection, industry, power engineering, agriculture and development of agri-food industry, health protection, administrative and decentralized cooperation, audio-visual media and communicating. In relation to the objective of the paper, it is worth highlighting that no cooperation in the labor area was mentioned. This aspect was reflected only in Art. 5, para. 2 in regard to the management and personnel trainings among the economic entities of the both countries.²⁵ The agreement included also a provision furthering cooperation among the union organizations of the both parties (Art. 9, para. 3).²⁶

Significantly enough, after signing the Treaty of Friendship, the additional agreements were made: the Agreement on Employment of the Polish Seasonal Workers in France of 20 May 1992,²⁷ and Accord on Cooperation in the Area of Labor, Employment and Work Training of 14 April 1994.²⁸ It is important to add that, before entering into the political treaty, the Agreement on Work Internship Exchange of 29 September 1990,²⁹ and the General Convention on Social Security of 9 June 1948³⁰ were signed.

In 1991, along with the treaty with France, an agreement with Germany was signed,³¹ and it constitutes one of the lengthiest and the most complexed Treaty of Friendship and Cooperation made by Poland with the Western European countries [Szafarz 2004, 7]. It also refers to the labor issues specifically [Barcz 1991, 28n.]. Art. 14, para. 1 states that: “the Contracting Parties

²⁵ Art. 5 para. 2 states that “Parties aim to establish the direct links of cooperation among the economic entities of the both countries. They shall develop their cooperation particularly in the area of economic administration, management and technicians training and implementation of the market economy mechanisms.”

²⁶ It is worth stating that France has agreed to support the development of close relations between the European Communities and Poland, and acknowledged “the perspective for the Republic of Poland to join the European Communities as positive,” and expressed support for Poland’s joining the Association Agreement as soon as possible (Art. 2, para. 3).

²⁷ Agreement between the Government of the Republic of Poland and the Government on the Republic of France on Employment of the Polish Seasonal Workers in France, Warsaw, 20 May 1992. Text available in the treaties database of the Ministry of Foreign Affairs of the Republic of Poland [henceforth cited as: MFA], <https://traktaty.msz.gov.pl/> [accessed: 7.08.2019].

²⁸ Accord between the Government of the Republic of Poland and the Government of the Republic of France on Cooperation in the Area of Labor, Employment and Work Training, Paris, 14 April 1994. Text available in the treaties database of the MFA: <https://traktaty.msz.gov.pl/> [accessed: 7.08.2019].

²⁹ Agreement between the Government of the Republic of Poland and the Government of the Republic of France on Work Internship Exchange, Auxerre, 29 September 1990, Journal of Laws of 1994, No. 100, item 489 [Florek 2000, 71].

³⁰ The General Convention between Poland and France on Social Security, the Additional Agreement on Social Security for the Mining Industry Workers and of Companies equalized to the Mining Industry, the Additional Agreement on the Funds Transferring Method and the General Protocol, Paris, 9 June 1948, Journal of Laws of 1949, No. 24, item 158.

³¹ In accordance with Art. 38, para. 2, the agreement entered into force on 16 January 1992.

shall broaden and advance their mutual relations based on the agreements relating to the social security and cooperation in labor and social policy.” Furthermore, the Federal Republic of Germany agreed to advise and to assist Poland in transformation of the social security system and in work activation in the labor relations (Art. 14, para. 2) [Janicki 1992, 44]. The parties also promised to develop, intensify and simplify the legal transactions in social affairs (Art. 33, para. 1), and to support closer cooperation among the trade unions (Art. 29, para. 2). The parties referred also to the issue of the personnel trainings stating, in Art. 27 of the treaty, that “consideration should be given for the personnel trainings cooperation; and that they shall broaden and advance it by entering in various agreements.”³²

It is worth mentioning that after signing the Treaty of Friendship and Cooperation with Germany, the parties also entered into: the Agreement on Application of the Treaty between the Republic of Poland and the Federal Republic of Germany on Social Security of 8 December 1990 signed on 19 December 1995,³³ and the Agreement on Export of the Special Benefits for the Eligible Living on the Territory of the Republic of Poland signed on 5 December 2014.³⁴ Correspondingly, before signing the political treaty, the following agreements were signed: the Agreement on Delegation of the Polish Companies’ Workers for Contract Work of 31 January 1990³⁵ (amended by the agreement of 8 December 1990³⁶); the Agreement on Cooperation in the Personnel Trainings and Professional and Management Staff Development in Economy of 2 May 1990;³⁷ the Agreement on Staff Employment for the

³² Based on the treaty, the Federal Republic of Germany has agreed to support Poland in the process of joining the European Communities “as far as strengths and possibilities allow,” and stated its “positive attitude towards the perspective of Polish accession to the European Communities, had there been proper circumstances” (Art. 8, para. 2–3) [Barcz 1991, 29].

³³ Agreement on Application of the Treaty between the Republic of Poland and the Federal Republic of Germany on Social Security of 8 December 1990, Bonn, 19 December 1995. Text available in the treaties database of the MFA: <https://traktaty.msz.gov.pl/> [accessed: 7.08.2019].

³⁴ Agreement between the Republic of Poland and the Federal Republic of Germany on Export of the Special Benefits for the Eligible Living on the Territory of the Republic of Poland, Warsaw, 5 December 2014, Journal of Laws of 2015, item 714.

³⁵ Agreement between the Government of the Republic of Poland and the Government on the Federal Republic of Germany on Delegation of the Polish Companies’ Workers for Contract Work, Bonn, 31 January 1990, Journal of Laws of 1994, No. 98, item 474.

³⁶ Agreement between the Government of the Republic of Poland and the Government on the Federal Republic of Germany on the Amendment of the Agreement between the Government of the Republic of Poland and the Government of the Federal Republic of Germany on Delegation of the Polish Companies Workers for Contract Work of 31 January 1990, Warsaw, 8 December 1990, Journal of Laws of 1994, No. 98, item 475.

³⁷ Agreement between the Government of the Republic of Poland and the Government of the Federal Republic of Germany on Cooperation in Personnel Trainings and Professional and Management Staff Development in Economy, Warsaw, 2 May 1990. Text available in the treaties database of the MFA: <https://traktaty.msz.gov.pl/> [accessed: 7.08.2019].

Purpose of Advancing their Professional and Language Skills (Staff-guests) of 7 June 1990;³⁸ the Agreement on Social Security of 8 December 1990.³⁹ Long before entering into these, the following agreements were reached: the Agreement on Social Insurance of Workers Temporarily Delegated to the Territory of Contracting Party of 25 April 1973;⁴⁰ the Cooperation on Application of the Agreement between the People's Republic of Poland and the Federal Republic of Germany on Pension and Injury Provision, made by exchange of documents, on 7 October 1975;⁴¹ the Agreement on Pension and Injury Provision of 9 October 1975;⁴² and the Cooperation on Regulation of Mutual Settlement in Pension and Injury Provision of 9 October 1975.⁴³

In the Treaty of Friendship and Cooperation signed 1991 with Italy⁴⁴ it was agreed that each of the Parties would secure, according to its legal system and international agreements in this field, the citizens of the other Party legally staying and employed on its territory the protection of the rights, including the right to social care (Art. 12). Based on the treaty, the parties also obliged to support the contacts exchange among the union organizations (Art. 19, para. 1). Correspondingly, it is equally important, as indicated in Art. 1, that the contracting parties shall develop their relations in all areas of their mutual interests. They shall “constantly and consequently advance their cooperation, further closer relations between the Polish and Italian nations in order to increase the quality of living [...]”. Art. 10, for the purpose of enabling Polish economy to transform to the market system, also obliged the parties to cooperate in the field of the personnel and management trainings. Simultaneously, Art. 11 of the treaty specified that the parties shall support the cooperation

³⁸ Agreement between the Government of the Republic of Poland and the Government of the Federal Republic of Germany on Staff Employment for the Purpose of Advancing their Professional and Language Skills (Staff-guests), Warsaw, 7 June 1990, Journal of Laws of 1994, No. 100, item 487 [Florek 2000, 71].

³⁹ Agreement between the Republic of Poland and the Federal Republic of Germany on Social Security, Warsaw, 8 December 1990, Journal of Laws of 1991, No. 108, item 468.

⁴⁰ Agreement between the Republic of Poland and the Federal Republic of Germany on Social Insurance of Workers Temporarily Delegated to the Territory of Contracting Party, Warsaw, 25 April 1973, Journal of Laws of 1974, No. 42, item 250.

⁴¹ Cooperation on Application of the Agreement between the People's Republic of Poland and the Federal Republic of Germany on Pension and Injury Provision, made by exchange of documents, on 7 October 1975. Text available in the treaties database of the MFA: <https://traktaty.msz.gov.pl/> [accessed: 7.08.2019].

⁴² Agreement between the People's Republic of Poland and the Federal Republic of Germany on Pension and Injury Provision, Warsaw, 9 October 1975, Journal of Laws of 1976, No. 16, item 101.

⁴³ Cooperation between the People's Republic of Poland and the Federal Republic of Germany on Regulation of Mutual Settlement in Pension and Injury Provision, Warsaw, 9 October 1975. Text available in the treaties database of the MFA: <https://traktaty.msz.gov.pl/> [accessed: 7.08.2019].

⁴⁴ In accordance with Art. 22 of the treaty, agreement entered into force on 15 December 1995.

in area of the technical and professional trainings, and, what is worth highlighting, “within the scope of the existing and the future agreements between the Republic of Poland and the European Communities and based on their respected legal solutions.”⁴⁵

3. POLITICAL TREATIES WITH THE WESTERN EUROPEAN COUNTRIES IN 1992–1993

In the year of 1992, only one political treaty with the Western European country was reached: with Spain. Based on this treaty,⁴⁶ the parties shall establish close cooperation in the areas of special importance from the perspective of the European integration (Art. 9), and that they shall support strengthening their bilateral contacts in the following fields: foreign trade, industry, finance, agriculture, environmental protection, legislation, state administration, tourism, and others, if the Contracting Parties shall deem necessary (Art. 11). Consequently, it is safe to say that the list of strong cooperation areas is not to be treated as a closed catalogue. Importantly enough, Art. 9 provides that the parties shall establish close cooperation in the areas of special importance from the perspective of the European integration.⁴⁷ This treaty also contains the similar provisions to the agreement with Italy in regard to the obligation of each of the Parties to secure, according to its legal system and international agreements in this field, the citizens of the other Party legally staying and employed on its territory, the protection of their rights, including the right to social care (Art. 12). The treaty specifies also that the parties shall develop cooperation in the field of the technical and managing personnel trainings (Art. 10), and that the Parties shall facilitate cooperation among the union organizations of the both states (Art. 7).

Furthermore, after reaching the Treaty of Friendship, Poland and Spain signed: the Convention on Social Security of 22 February 2001,⁴⁸ the Agreement on the Rules and Conditions for the Mutual Workers Movement between the

⁴⁵ In several provisions of the Agreement there were references of the future Polish accession to the European Communities. Among others, Art. 8, para. 4 states that “The Republic of Italy considers as positive the expressed willingness of the Republic of Poland for the accession to the European Communities, accordingly to the provisions of the treaties.” In addition, Italy has agreed, within the scope of their possibilities, to assist in adaptation of the Polish law to the European legal rules and norms (Art. 8, para. 5).

⁴⁶ In accordance with Art. 19 of the treaty, agreement entered into force on 4 December 1994.

⁴⁷ Spain has also agreed to support Polish efforts in creating circumstances for the full integration of Poland with European Communities (Art. 9).

⁴⁸ Convention on Social Security between the Republic of Poland and the Kingdom of Spain, Madrid, 22 February 2001, Journal of Laws of 2004, No. 28, item 244.

both Countries of 21 May 2002;⁴⁹ and the Administrative Cooperation on Application of the Convention on Social Security of 17 June 2003.⁵⁰

In 1993 one treaty was made by Poland with a state that is regarded to be included in this group: Turkey. The treaty between Poland and Turkey,⁵¹ beyond including the willingness of the parties to complete and adjust to the new circumstances previously signed Treaty of Friendship of 23 July 1923,⁵² contains only 11 Articles [Banaszkiewicz 2007, 271–72] and refers only, in respect to the subject of this paper, to cooperation among the trade unions of the both countries.⁵³

Correspondingly, at the time of making the treaty, the 1931 Settlement Convention⁵⁴ was still in force. Thus, it was denounced by the President of Poland on 13 February 2004,⁵⁵ and in accordance with the 10 September 2003 Act,⁵⁶ the Convention expired on 25 February 2005.⁵⁷

Poland and Turkey signed also the Convention on Social Security⁵⁸ and the Administrative Cooperation on Application of the Convention on Social Security between the Republic of Poland and the Republic of Turkey of 17 October 2017.⁵⁹

⁴⁹ Agreement between the Republic of Poland and the Kingdom of Spain on the Rules and Conditions for the Mutual Workers Movement between the both Countries, Warsaw, 21 May 2002, Journal of Laws of 2004, No. 216, item 2191.

⁵⁰ Administrative Cooperation on Application of the Convention on Social Security between the Republic of Poland and the Kingdom of Spain signed in Madrid on 22 February 2001, Warsaw, 17 June 2003 Journal of Laws of 2004, No. 28, item 246.

⁵¹ In accordance with Art. 11, para. 1 of the treaty, agreement entered into force on 15 June 1995.

⁵² Treaty of Friendship between Poland and Turkey, Lausanne, 23 July 1923, Journal of Laws of 1924, No. 39, item 407.

⁵³ Art. 5 states that “the Parties shall support the direct contacts among the political parties, associations, economic organizations and the trade unions.”

⁵⁴ The Settlement Convention between Poland and Turkey, Ankara, 29 August 1931, Journal of Laws of 1934, No. 3, item 7 [Makowski 1935, 221; Chmielowska 2006, 274–78].

⁵⁵ The Republic of Poland’s Document of Denunciation of the Settlement Convention between Poland and Turkey signed in Ankara on 29 August 1931, Warsaw, 13 February 2004, Journal of Laws of 2013, No. 1454.

⁵⁶ Act on the Denunciation of the Settlement Convention between Poland and Turkey signed in Ankara on 29 August 1931 of 10 September 2003, Journal of Laws No. 188, item 1834.

⁵⁷ Government Statement of 14 November 2013 on Denunciation of the Settlement Convention between Poland and Turkey signed in Ankara on 29 August 1931, Journal of Laws of 2013, item 1455.

⁵⁸ Agreement between the Republic of Poland and the Republic of Turkey on Social Security, Warsaw, 17 October 2017. Text available in the treaties database of the MFA: <https://traktaty.msz.gov.pl/> [accessed: 7.08.2019].

⁵⁹ Administrative Cooperation on Application of the Convention on Social Security between the Republic of Poland and the Republic of Turkey, Warsaw, 17 October 2017 r. Text available in the treaties database of the MFA: <https://traktaty.msz.gov.pl/> [accessed: 7.08.2019]. Coincidentally, both states are also bound by the Agreement between the Government of Republic

4. POLITICAL TREATIES WITH THE WESTERN EUROPEAN COUNTRIES AFTER 1993

The last political treaty made by Poland is the 1996 agreement with Greece.⁶⁰ It was signed “in regard to the existing friendship relations [...], as it was attested by the previously made” Treaty of Friendship of 4 January 1932.⁶¹ The 1996 agreement provides only, within the context of this article, that each of the Parties shall secure the citizens of the other Party legally staying and employed on its territory the protection of the right to social care according to its legal system and the international agreements in this field (Art. 13, para. 1). Additionally, it was agreed that the parties shall support the direct contacts among the trade unions (Art. 16, para. 1).⁶²

Comparable, before reaching the political treaty, Poland signed with Greece: the Agreement on Regulating Selected Problems of Social Security of 3 May 1985⁶³ and the Agreement on Social Insurance of the Employed on the Territory of the Other State.⁶⁴

of Poland the Government of the Republic of Turkey on Mutual Work Permit for the Families Members of the Diplomatic Missions or Consular Posts Members of the Staff of the Sending State on the territory of the Receiving State, by exchange of documents, 22 March 2004, “Monitor Polski” of 2004, No. 34, item 596.

⁶⁰ In accordance with Art. 20, para. 1 of the treaty, agreement entered into force on 3 July 1998.

⁶¹ Treaty of Friendship, Conciliatory and Arbitral between the Republic of Poland and the Hellenic Republic, Warsaw, 4 January 1932, Journal of Laws No. 66, item 614. This treaty lost its binding force in part of conciliation and arbitration on 22 October 1995, the day the Convention on Conciliation and Arbitration for the CSCE, signed 15 December 1992 (Journal of Laws of 1999, No. 98, item 1139) entered into force. This Convention in regard to Poland entered into force earlier, on 5 December 1994 [Szafarz 1993, 58].

⁶² It is worth mentioning that in accordance with the treaty, Greece has agreed to support Poland in the efforts of accession to the European Union and, as far as possible, in adjusting Polish “laws to the European Union Laws” (Art. 6).

⁶³ Agreement between the Government of the Republic of Poland and the Government of the Hellenic Republic on Regulating the Selected Problems of Social Security, Athens, 3 May 1985 r. Text available in the treaties database of the MFA: <https://traktaty.ms.gov.pl/> [accessed: 7.08.2019].

⁶⁴ Agreement between the Government of the Republic of Poland and the Government of the Hellenic Republic on Social Insurance of the Employed on the Territory of the other State, Athens, 3 May 1985, Journal of Laws of 1986, No. 30, item 147.

5. FINAL REMARKS

Analysis of the Treaties of Friendship and Cooperation made by Poland with the Western European countries leads to conclusion that the majority of the labor references were reached by the treaty with Germany. Due to the fact that it was an agreement made by two neighboring states, and for the reason of geographical location and close economic relations of both states, it is – by all means – safe to state that this field of cooperation in Polish-German relations is of special importance and the parties have granted it the adequate rank. Profitable solutions were also made in the treaties with Greece, Spain and Italy, where it was stated that the parties would secure, according to their legal systems and the international agreements in this field, the citizens of the other parties' legally staying and employed on their territories the protection of their rights (the treaty with Spain and the treaty with Italy), including the right to social care (the treaty with Greece). In the majority of those treaties (with an exception of Turkey) they include also provisions dealing with the management or technical trainings. The narrowest scope of the analyzed issues was presented in the agreement with Turkey. It contains – what is also true with the rest of the treaties – only a provision for support of the direct contacts among the trade unions.

Comparatively, the majority of those countries (with an exception of Turkey) are also the European Union members that maintain cooperation in this area within the common European integration. As a result, the 1948 General Convention on Social Security with France, the Agreement on Social Insurance of the Employed on the Territory of the other Party and the 1985 Agreement on Regulating the Selected Problems of Social Security with Greece, the 2001 Convention on Social Security with Spain and the 1973 Agreement on Social Insurance of Workers Temporarily Delegated to the Territory of Contacting Party and the 1990 Agreement on Social Insurance with Germany all have been replaced, effective 1 May 2004 (the day of accession of Poland to the UE) by the provisions of the Regulation (EEC) No 1408/71 of the Council of 14 June 1971,⁶⁵ and are no longer binding [Ministry of Family, Labour and Social Policy 2019]. It is important to add that the previously mentioned Regulation along with the Regulation (EEC) No. 574/72 of the Council of 21 March 1972 on fixing the procedure for implementing Regulation (EEC) No 1408/71⁶⁶ were replaced respectfully by the Regulation

⁶⁵ Regulation (EEC) No 1408/71 of the Council of 14 June 1971 the application of social security schemes to employed persons and their families moving within the Community, Journal of UE Laws No. L 28, 30 January 1997.

⁶⁶ Regulation (EEC) No 574/72 of the Council of 21 March 1972 fixing the procedure for implementing Regulation (EEC) No 1408/71 on the application of social security schemes to employed persons and their families moving within the Community, Official Journal No. L 28,

(EC) No. 883/2004 of the European Parliament and of the Council of 29 April 2004 on the Coordination of Social Security⁶⁷ and the Regulation (EC) No. 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No 883/2004 on the coordination of social security systems.⁶⁸

However, this fact does not contradict the truth that the provisions relating to the labor issues in the treaties made by Poland have paved the way to the common European Union regulations in this aspect. Based on the current legal status analysis, a conclusion is reached that the regulations which today constitute part of the freedom of movement for workers in the European Union, can be recognized as those originated in the described bilateral agreements, and those bilateral agreements shall themselves be acknowledged as “grain” of the states’ cooperation in the field of social life. In conclusion, focusing on the work migrations and on the necessity of protecting people – mutually – by contracting states is not only legally significant but also of proper social gravity, even if, in some of those treaties, this issue was treated precociously.

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⁶⁷ Regulation (EC) No 883/2004 of the European Parliament and of the Council of 29 April 2004 on the coordination of social security systems, Official Journal No L 166, 30 April 2004.

⁶⁸ Regulation (EC) No 987/2009 of the European Parliament and of the Council of 16 September 2009 laying down the procedure for implementing Regulation (EC) No. 883/2004 on the coordination of social security systems, Official Journal No L 284, October 2009.

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ZAGADNIENIA DOTYCZĄCE PRAWA PRACY W TRAKTATACH O PRZYJAŹNI
I WSPÓŁPRACY ZAWARTYCH PRZEZ POLSKĘ
PO 1989 ROKU Z PAŃSTWAMI ZACHODNIOEUROPEJSKIMI

Streszczenie. Zagadnienia z zakresu prawa pracy są przedmiotem licznych umów międzynarodowych, zarówno wielostronnych, jak i dwustronnych. Odgrywają one istotną rolę w systemie źródeł prawa pracy. Wśród umów dwustronnych każdego państwa ważną rolę odgrywają umowy o przyjaźni i współpracy (tzw. traktaty polityczne), które zarówno odzwierciedlają priorytety polityki zagranicznej danego państwa, określając pod względem terytorialnym

obszary zainteresowań, ale także wskazują dziedziny szczególnego zainteresowania stron. Polska, po przemianach ustrojowych przełomu lat 1989–1990, zawarła tego typu traktaty z byłymi państwami socjalistycznymi położonymi w Europie Środkowej i Południowej, państwami ukształtowanymi po rozpadzie ZSRR oraz – co stanowiło *novum* w polskiej praktyce traktatowej – z państwami zachodnioeuropejskimi (tj. z Francją, Hiszpanią, Niemcami i z Włochami) oraz zaliczanymi do tej grupy państw w znaczeniu politycznym, a nie geograficznym: z Grecją i z Turcją. Analiza tych traktatów dowodzi, że najwięcej odniesień znalazło się w traktacie politycznym z Niemcami, czyli z państwem-sąsiadem Polski – tej dziedzinie współpracy nadano odpowiednie znaczenie i rangę. Korzystne rozwiązania przyjęto w traktatach z Grecją, Hiszpanią i Włochami. Najmniej uwagi poświęcono w traktacie z Turcją, w którym zawarto jedynie postanowienie, które znajduje się i w umowach z innymi państwami, dotyczące popierania bezpośrednich kontaktów między związkami zawodowymi.

Słowa kluczowe: traktaty o przyjaźni i współpracy, traktaty polityczne, polska praktyka traktatowa, międzynarodowe źródła prawa pracy, umowy międzynarodowe, związki zawodowe, kształcenie kadr, zabezpieczenie społeczne, umowy międzynarodowe dotyczące zagadnień pracy

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