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1. Regulation of the right to strike

1.1 The right to strike as a fundamental right

Strikes in Poland do not enjoy the benefit of a long tradition. For the first time in the history of Polish labour law and industrial relations the right to strike was written into a statute on trade unions passed by Parliament on 8 October 1982.[1] This particular piece of legislation was introduced after negotiations which took place in the second half of 1980 between the Solidarity trade union and the socialist government,[2] At the request of trade union representatives, mostly members of Solidarity, which took part in the process of preparing the statute until 13 December 1991, the Trade Union Act of 8 October 1982 undertook an extremely casuistic approach toward legal regulation of the right

to strike, its scope and limits. It was written in this way because both parties to labour disputes, the trade unions and the government, did not have any practical experience in dealing with concerted activity in collective labour relations.
I do not want to give the impression that strikes did not occur in the socialist society prior to the late summer of 1989. A history of industrial relations in post World War II Poland, showed us that stoppages as strikes occurred on a regular basis, especially during periods of political unrest in e.g. 1956, 1968, 1970, 1976.[3] At those times workers did not exercise their right to industrial action, since the right to strike had not been expressed in any statute or other act issued by the state, or in any collective agreement negotiated by trade union organizations with an appropriate agency (branch) of state government acting as an owner of the so-called «socialist means of production». Legal scholars described the state government, under such circumstances, as acting in two capacities: either as a «direct employer» or as an «indirect employer». Although the state did not bargain with its employees (civil servants) as a «direct employer », it still took good care of their interests. The state adopted the philosophy of the well-known proverb: «If civil servants are good for their state, the state government is good for its servants». Hence, civil servants, being employees directly employed by the state, were not entitled to bargain with their employer (the state) over terms and conditions of their employment.[4] Therefore, collective labour law was not developed at all in that specific sector of economy in which the state government acted as a direct employer.
However, the situation was different when the state and its various agencies acted as an «indirect employer». The majority of workers were and, as a matter of fact, still are employed by state-owned enterprises. In this sector of the national economy there were no objections against strikes which were directed, not against the socialist state, but against any enterprise owned by the socialist state. Socialist law in Poland was short of any legal sanctions against such «unsocial human behaviour». It should be emphasized that while the strike was not considered a criminal offence, striking workers were nevertheless prosecuted for minor offences against law and order, or any other type of «antisocial behaviour ». Mass gathering in a public place without an authorization from the proper state authority could serve, and often did serve, as an example of such an offence. Moreover, such strikers were fired from jobs due to the cessation of work, which was considered a major breach of the employment contract.
Therefore, while technically speaking strikes were not prohibited by the socialist government, still – until the end of 1982 – there still did not exist the type of freedom which could be enjoyed by workers without fear of administrative punishment. Therefore, in Poland it is difficult to define the legal status of the freedom to strike prior to its introduction in the statutory act enacted on l January 1983. In reality however, some major strikes, like the one which was organized in «Lenin's shipyard» in Gdańsk by representatives of a free trade union movement - NSZZ «Solidarity», did enjoy a certain degree of freedom. Especially in the case of successful strikes, very few (if any) workers were punished

for taking part in an activity which was not officially recognized by the state. It provides that in the arena of industrial relations, the balance of power between representatives of workers and employers is far more important than any legal regulation. Furthermore, until martial law was lifted, the right to strike written in the Trade Union Act of 8 October 1982 was only a political declaration. Trade unions were allowed to return to political life after l January 1983. For political reasons, the activity of the Solidarity labour union ceased until the outcome of the political negotiations between the opposition and the government in the late winter of 1988 and the early spring of 1989. Since under the Polish collective labor law trade unions enjoy a monopoly on exercising the right to organize lawful strikes, it was impossible to start any industrial action before the trade unions were registered.[5]

The major battle, as far as the right to strike is concerned, took place in the civil divisions of nineteen district courthouses throughout the country and the Labour and Social Security Chamber of the Polish Supreme Court. This battle was expressed in the legal proceedings relating to the registration of new trade unions which were set up with the governmental support after l January 1983. The most spectacular engagement took place at the request of the organizing committees of teachers and of food producers' trade unions. According to chapter 5 of the Trade Union Act of 1982, strikes by workers employed at educational institutions and enterprises engaged in the process of producing food were strictly prohibited. In 1983, a case was brought before the Supreme Court by an organizing committee of trade unions seeking recognition and applying for registration of by-laws granting the right to strike to administrative employees (those not engaged in teaching activities).[6] A year later, in 1984, another case concerning the recognition of the right to strike by workers employed at state collective farms was brought before the Supreme Court.[7] In both cases the Supreme Court took quite a restrictive position denying the right to strike to any employee employed at any of the institutions listed in chapter 5 of the Trade Union Act, schools and food producers included, as mentioned above. However, it should be emphasized that under such circumstances the unions are not waiving any individual statutory right to strike or collective right to organize strike, as such any of those mentioned two kind of legal rights were not statutorily recognized in the first place.[8]

It has to be stressed, however, that the right to strike declared by the Trade Union Act of 1982 could not technically be considered a legal right within the limits of both labour law and civil law. It cannot be exercised individually. No judicial organ would ever confirm a right of an individual worker to go on strike. No legal suit can be brought into a court of law against any person, most probably an employer, who dared to challenge this right and denied any action taken in order to exercise the workers right to strike.

At present, the strike is regulated by the Act of 23 May 1991 on labour disputes.[9] Chapter 4 of the Act on Labour Disputes is entitled «strike», while chapter 5 of the previous act – the Trade Union Act of 1982 bore a title: «Labour

Disputes. The right to strike». A comparative study of the two above-mentioned titles while not raising the problem of the legal source of the strike any more, is still trying to decide whether the strike is to be considered as a right or as a freedom. The new Trade Union Act passed on 23 May 1991[10] is quite similar to the previous Act of 1982 as far as the scope of trade union internal power is concerned. The trade union is allowed lo regulate it goals in its statute, constitution or by-laws, as well as to state the measures required to achieve these goals. Therefore, the trade union is perfectly eligible to organize a strike in order to protect worker's economic, and professional interests. Clearly enough, the Act of 23 May 1991 on labour disputes defines a concerted activity called «strike» and sets the legal boundaries regarding the extent this activity can be exercised and still remain within the limits of the law. Since July 26th, 1991 (the day of an implementation of the Act of 23May 1991 on labour disputes), the act to strike has been recognized by the state as a fundamental freedom – human right[11] which can be exercised by workers in order to apply pressure on an employer in matters concerning terms and conditions of employment, fringe benefits, social security benefits, trade union rights and freedoms. This freedom to strike derives from the right to associate, assemble and be free to express one's opinion in matters of economic, professional, social as well as political interest of blue and white collar workers.[12] Therefore, the freedom to strike is a natural consequence of the right of an employee to competent representation, provided by a trade union under the principle of exclusivity of trade union representation guaranteed under Polish collective labour law.

1.2 Sources

Legal definition of the strike is provided in art. 17 § 1 of the act concerning collective labour disputes. Strike is defined as collective work stoppage with purpose to solve labour dispute concerning terms and conditions of work, wages, social benefits and trade union rights and freedoms of workers and employees which enjoy the right to associate in trade unions (art. 1). In order to define the right to strike it is necessary to interpret two different provisions of the act of May 23, 1991 concerning collective labour disputes: art. 17 § 1 and art. 1. It is also necessary to interpret provisions of the Trade Union Act of May 23, 1991 in which the scope of power of labour unions is regulated. The right to strike has been recognized by the State as a fundamental freedom which can be exercised by workers in order to apply pressure on an employer in matters concerning terms and conditions of employment, fringe benefits, social security benefits, trade union rights and freedoms. This freedom to strike derives from the right to associate, assemble and be free to express one's opinion in matters of economic, professional, social as well as political interest of blue and while collar workers». Therefore, the freedom to strike is a natural consequence of the right of an employee to competent representation, provided by a trade union under the principle of exclusivity (monopoly) of trade union representation guaranteed under Polish collective labour law.

The right to associate as well as the right of being represented by trade union representatives is prescribed in the Trade Union Act of 23 May 1991. It is also guaranteed in the Polish Constitution. This is in keeping with the national tradition according to which the right to disagree is one of the principle freedoms of human beings. Thus, the freedom to oppose, is deeply rooted in Polish constitutional history. It is derived from *liberum veto*.[13]
Within the legal boundaries established by the Trade Union Act, a trade union organization is an independent body established by workers for the purpose of defending their dignity, their economic well being, and their moral integrity, both collective and individual (article 4). The trade union is established to represent the workers' professional and social interests (article 1). In order to do so, and in accordance with the Act on labour disputes of 23 May 1991 trade unions are allowed to be involved in labour disputes with employers concerning not only economic and social conditions of work, but also the right to associate, and trade union freedoms (article 1). Disagreement in some of the abovementioned matters (conditions and terms of employment, wages, social benefits, trade union rights and freedoms) may result in a strike. The strike is recognized in collective labour law as a weapon which can be applied by trade unions during industrial disputes. The Trade Union Act of 1991 grants workers the freedom to use this weapon.
There are various criteria that can be used to make a theoretical classification of strikes. From the legal point of view, the most important classification of strikes concerned classification according to the limits of legal regulations – legal strikes, or set them outside the parameters of collective labour law – wildcat strikes.[14] Legal strikes are protected by the act concerning resolution of collective labour disputes. Art. 26 § 1 of that act states that anybody – any official organ using its power to obstruct the process of a labour dispute is subject to a fine.
The 1991 law on collective labour disputes defnes the strike as an organized stoppage of work undertaken in order to solve a labour dispute conceming economic, professional, social interest and trade unions' freedoms (article 17 § 1) in conjuction with art. 1 § 1 of the Trade Union Act. The law does not stress a specific organizational structure of the strike. It is understood, however, that the strike has to be considered as an organized or coordinated type of activity since at least one group of workers has to be engaged in the labour dispute.

1.3 Persons authorized to proclaim a strike (legal ownership)
Only employees and workers can invoke the right to strike under the Polish collective labour law. A strike is lawful when it is organized by the local or national trade union. No other organization or body chosen by workers is entitled to organize a legal strike. All trade unions regardless of their affiliation, orientation, density or legal status concerning a representatively are entitled to organize strikes. In practice, however, trade union monopoly to organize strikes was not accepted. The famous strike in August 1980 in «Lenin's» shipyard in

Gdańsk was organized by group of nonunionized workers headed by Lech Wałęsa. The trade union monopoly to organize legal strike at the beginning was declared by the European Committee of Social Rights of the Council of Europe as the noncompliance with art. 6 sec. 4 of the European Social Charter. Later the Committee has changed its decision and declared the trade union monopoly legal on the condition that the national labour legislation does not establish to rigorous requirements for setting up trade union.[15] According to Trade Union Act of 1991 it requires only ten indviduals, at least one of them employed who decides to form trade union.

1.4 Procedures and proclamations

The strike has to be preceded by negotiations. The law on resolving labour disputes obliges an employer to respond immediately to trade union demands concerning terms, conditions of work, wages, social benefits, and trade union rights and freedoms. Labour disputes start on the third day after the trade union request was presented to an employer who ceased to act, or rejected the trade union's demand. The employer's response initiates the process of direct negotiations between the parties to an industrial conflict. Trade unions may issue a warning to an employer that should its demands be ignored, a strike would be called within the next fourteen days, or later. The law on labour disputes does not contain any provisions concerning the way negotiations should be conducted. The act on labour disputes gets no limitation on the length of time that parties to an industrial dispute are required to negotiate. They are obliged to negotiate as long as it takes to reach an agreement, or establish the facts relevant to the dispute. A signed agreement heralds the end of industrial conflict. A statement of fact-finding is a sign that the labour dispute approached a higher level of negotiation.

Mediation proceedings may be initiated only by request of the trade union. Under former regulation – Trade Union Act of 1982 either party, or both of them acting jointly were allowed to transfer the collective labour dispute to mediation-arbitration committee.[16] A mediator is not empowered to take any decision which disposes of the labour dispute. This is reserved for an arbitrator if the trade union desires a peaceful continuation of the settlement of the labour dispute. Lack of agreement during mediation proceedings allows the trade union to call a strike.

Making a decision concerning a strike, the trade union is obliged to take into consideration what is it at stake. If the economic estimation is that workers are going to lose more than gain after declaring a strike, the trade union should think twice before calling a strike. The law on resolving labour disputes does not implicitly provide that a strike decided upon without proper economic consideration of what can be gained and lost is considered an illegal one. There is no legal possibility lo ask for an injunction against a strike which by simple comparison of possible gains and losses could be declared illegal by the labour court.

1.5 Limitations on the right to strike

As already mentioned, a strike organized contrary to the procedural restrictions is considered to be unlawful. Those restrictions are rather limited. In the most current amendment to the act on the collective dispute resolution procedures secret ballot on the issue of the strike was lifted, the cooling-off period was shortened from seven to five days. The need to obtain confirmation from higher levels of the trade union organization vanished from recent legislation on the resolution of labour disputes. All changes were due to the complaints that the previous Trade Union Act of 1982 made the life of strike organizers quite difficult, and would not allow workers to go on strike legally. Under the present law on resolving labour disputes, the procedural requirements related to a legal strike are minimal. They include requirements concerning; a proper body to make a decision to go on strike (local trade union organization, or – in a case of larger strike – the relevant trade union federation); exhaustion of negotiation, mediation, and eventually arbitration procedures, a majority support of the involved workers and the submission of a proper notification of the strike decision to the employer.

A strike called under any type of pressure is illegal. The law of resolving labour disputes provides that workers are free to participate or refrain from participation in industrial activity, which is quite understandable since workers are free to strike, or continue their routine working activities. A trade union organizing a strike is obliged to put the issue to a vote of the working force. A strike is legal if 50% or more of the workers participating in the pool vote in favour of the strike. The law does not require secret ballot as it used to do under the previous regulation (the Trade Union Act of 1982). The strike is considered to be an internal trade union matter and as such is free from any interference by any of the state organs or legislative bodies.

Only a strike which is not contrary to the above-mentioned clauses is considered legal. A trade union must deliver its decision and intent to organize a legal strike to the employer, not less than five days before so doing. The law on resolving labour disputes does not require, as was necessary under the previous legislation (Trade Union Act of 1982), a longer cooling off period, or a written notice.

1.6 The exercise of the right to strike in different sectors and categories of workers

Certain categories of employed either do not enjoy the right to strike or can not participates in strikes. Therefore procedure established by the act on resolution collective labour disputes is short of the last phase designed to bring the pressure by employees upon employers. Strikes are prohibited amongst policemen, secret service employees, fire fighters, prison guards, military personnel, and the border patrol. Civil servants employed in state and city administration, courts of justice, and district attorney offices are not free to participate in a strike. Therefore, it can be said that freedom to strike is in fact curtailed for all

workers employed at certain institutions, regardless of their official engagement, e.g., courts; all people employed in the same profession, e.g., military and paramilitary personnel; or workers performing jobs vital to certain human and social values, including life.

2. Trade union and strike

2.1 Reasons for the strike

The purpose of a strike is quite vaguely defined. Being an economic weapon, the strike should be used by the trade union in order to bring economic pressure on the employer. According to article 17 of the act on labour disputes, workers go on strike for the sole purpose of solving labour disputes concerning their economic, social, professional interests and trade union rights and freedoms. The strike is employed as an aggressive economic weapon used by workers in order to put a pressure upon employers.

2.1.1 Political strike

Strikes could be classified according to their purpose. Trade unions may organize a strike in order to bring about economic pressure on the employer, a type of strike that is most common nowadays. In the past, strikes were organized for political reasons. It has also happened that a strike was organized to provide a warning against specific behaviours of certain government officials. A trade union may choose to call a strike to demonstrate a certain attitude, e.g., solidarity with problems faced by employees who are not allowed to strike. In the short history of the moder industrial relations in Poland, all types of strikes occurred during the past decade of the 1980s – general, rotating, sit-down, wild-cat, and even jurisdictional strikes. The jurisdictional strike occurred when the government backed-up a certain trade union which was resented by the workers.

The list of situations in which it is forbidden to strike is shorter under the new legislation concerning the resolution of labour disputes. There is no freedom to strike for those workers ernployed in jobs in which stoppage may endanger human health and life, as well as pose a threat to the national security.

The Act on labour disputes does not prohibit political strikes. A few years ago such a repressive clause was one of the most distinctive features of the Trade Union Act of 1982. Quite an unsuccessful one, I might add, as most of the strikes organized by Solidarity during the decade of the 1980s, concerned political issues and opposition to political decisions taken by the socialist government.

2.1.2 Solidarity strike

Solidarity strikes may be organized by employees and workers employed by other employer with the purpose to support interests or/and defend employees' rights of those employees which do not enjoy the right to strike (art. 22 of the Act on resolving collective labour disputes). Solidarity strike cannot last longer

than half of the working day (four hours).

2.2 Methods of the strike

2.2.1 Anomalous forms of striking
Polish collective labour law is silent as far as this particular issue is concerned. Only once in the most recent history of the Polish labour the Supreme Court ruled out the hunger strike as the proper method of protest. The hunger strike cannot be treated as the proportional action to the result which striking worker wants to achieve. Therefore the hunger strike is illegal because it violates art. 17 § 3 of the act on resolving collective labour disputes.[17] Any of the methods listed in scheme of topics to be covered such as hiccup, chessboard or slowdown strike were not considered illegal. Some of them were practiced.

2.2.2 Forms of collective action different from the strike
The act on resolving collective disputes guarantee the right to all employees, also these which do not posses the right to strike, to use the other forms of protest in order to defend their interests and rights mentioned in art. 1 of that act (art. 25 § 1). Alternative forms of protest to a strike may be used to support striking workers. Those employees who participate in one of the alternative forms of protest are obliged to carry on their employment obligations toward an employer against whom an alternative form of protest was organized. They are also obliged to behave according to existing rules of law. An employees taking part in an alternative form of protest have to refrain themselves from any activity risky to human life or health. The most popular forms of alternative protests to a strike enumerated by commentators are: picketing, boycotting, occupation, secret strike, obstruction, lack of cooperation.[18] Polish Supreme Court ruled that «hunger strike» cannot be treated as an alternative form of protest to strike.[19] Such alternative form of protest violates art. 25 § 1 of the act on resolving collective labour disputes. An alternative forms of protest may be used after the procedural requirements proceeding organization of strike or any other form of protest (negotiation, mediation or eventually arbitration) are being completed. An individual farmers may start and proceed with alternative forms of protest in such organizational form as decided by their trade union organization (art. 25 § 2 of the act of resolving collective labour disputes).
The new law on resolution of labour disputes treats strikes not only as the most important trade union's weapon of industrial action, but as the most important weapon regulated by collective labour law. It is quite amusing, since in addition to strike, the other kinds of hostile actions – such as boycotts, hot cargo, picketing, hand-billing on the part of the trade union; and espionage, blacklisting, intimidation, coercion of employees, and interference with legal trade union activities on the part of employer – have played and continue to play a significant role in industrial conflicts.[20] The boycott which is a concerted and organized withdrawal from economic relations with specific subjects, and

hot cargo which is an embargo declaration on certain type of goods concerned «hot», are considered the most sophisticated industrial weapons. It is the practice in some plants for the reason of workers solidarity. It is not regulated, however, by Polish collective labour law.

2.2.3 Virtual strike

A virtual strikes are not being part of the Polish national legal scheme.

2.3 Unlawful strike

As already mentioned, a strike organized contrary to the procedural restrictions is considered to be unlawful. Those restrictions are rather limited. In the most current amendment to the act on the collective dispute resolution procedures secret ballot on the issue of the strike was lifted, the cooling-off period was shortened from seven to five days. The need to obtain confirmation from higher levels of the trade union organization vanished from recent legislation on the resolution of labour disputes. All changes were due to the complaints that the previous Trade Union Act of 1982 made the life of strike organizers quite difficult, and would not allow workers to go on strike legally. Under the present law on resolving labour disputes, the procedural requirements related to a legal strike are minimal. They include requirements concerning; a proper body to make a decision to go on strike (local trade union organization, or – in a case of larger strike – the relevant trade union federation); exhaustion of negotiation, mediation, and eventually arbitration procedures, a majority support of the involved workers and the submission of a proper notification of the strike decision to the employer.

A strike called under any type of pressure is illegal. The law of resolving labour disputes provides that workers are free to participate or refrain from participation in industrial activity, which is quite understandable since workers are free to strike, or continue their routine working activities. A trade union organizing a strike is obliged to put the issue to a vote of the working force. A strike is legal if 50% or more of the workers participating in the pool vote in favour of the strike. The law does not require secret ballot as it used to do under the previous regulation (the Trade Union Act of 1982). The strike is considered to be an internal trade union matter and as such is free from any interference by any of the state organs or legislative bodies.

Only a strike which is not contrary to the above-mentioned clauses is considered legal. A trade union must deliver its decision and intent to organize a legal strike to the employer, not less than five days before so doing. The law on resolving labour disputes does not require, as was necessary under the previous legislation (Trade Union Act of 1982), a longer cooling off period, or a written notice.

Strike organized contrary to the social peace obligation clause is illicit. There is no inclusion of peace obligation clauses in the collective agreements. Art. 240 § 2 of the Labour Code which was changed in 2000 states that parties which negotiated and concluded collective agreement are obliged to respect its provisions

in which their legal obligations were set up. The social peace clause written in article 4 sec. 2 of the law on the resolution of labour disputes limits industrial disputes to matters regulated by social partners in collective agreements, not only to wages.

A social peace obligation is a waiver of the right to start a labour dispute.[21] Bearing in mind that the strike is considered a last stage of industrial dispute, the question arises as to whether a peace obligation is a waiver of the freedom to strike, which as a natural human right cannot be waived. It is worthwhile to notice that article 4 sec. 2 of the law on resolution of labour disputes does not mention workers and their freedom to strike. It refers only to trade unions and their right to organize a strike. Therefore, a peace obligation is a waiver of the trade union's right to use its major economic instrument for some economic concessions made by an employer during the time that the collective agreement is in force. It is considered as a major concession which is presented by the employer to trade unions, a concession which gives trade unions some access to the decision-making process in matters of wages and other terms and conditions of employment The social peace obligation is understood by Polish collective labour law, as binding only on the trade union acting as a contracting party. The social peace obligation does not have any legal implications upon a trade union which is not a party to a collective agreement. Since the peace obligation is included among the obligatory provisions of the collective agreement, it does not affect any individual contract of employment which is regulated by the collective agreement. Therefore, theoretically, as well as practically, the peace obligation does not affect the workers» freedom to strike. Notwithstanding, it affects their opportunity to participate in a strike since their elected representative, the trade union, is not allowed to generate its legal power to call a strike.

The question arises as to who is bound by the social peace obligation clause: the trade union, the individual worker, or both? There is no doubt that the trade union is bound by the social peace obligation clause. However, the question is still valid as far as the individual worker is concerned. The peace obligation clause deals with actions taken by actors acting within the confines of collective labour law. The employee, as mentioned above, is not one of them. Therefore, the peace obligation clause binds the workers en masse, and not individually.

The individual worker is not bound by the peace obligation clause if he/she does not belong to a trade union and is not obliged to comply with trade union discipline. It is not binding even on workers who are members of the trade union. The agency theory was never popular in Polish legal doctrine.[22] On the contrary, the trade union empowered to act on behalf of their members is obliged to negotiate terms and working conditions on an equal footing for all workers, regardless of their trade union affiliation. A social peace obligation clause does not exert any legal influence on the normative part of the collective agreement. Since the normative part is only subject to the influence of the terms and conditions of the individual contract of employment, it is quite easy

to understand why the peace obligation clause does not influence the worker's individual behaviour on the job. It defines matters which lie outside the normative part of the collective agreement. Regardless of an existing collective agreement, there is always a legal opportunity to start industrial action in matters lying either outside the scope of collective agreement, or by projecting this action on workers who do not feel obliged by promises made by the trade union representative. In either case it would be impossible to talk about violation of the social peace obligation clause.

2.4 Sanctions in the collective conflict

Both trade unions as strike organizers and individual workers participating in some kind of unlawful industrial activity are liable in tort (article 26 § 3 of the law on resolving labour disputes). A certain change in the philosophy of civil responsibility – which is applicable in the case of infringement of the property of the enterprise – became evident since the change in ownership of means and tools of production was notified and accepted by the general public. Private ownership of enterprises requires greater care against actions which could cause damage. The strike is one of them. In a new political and economic environment, legal scholars have to look at the strike not only from the strikers' human rights point of view, but also from property-oriented perspectives presented by the private owner employer.

Organizers of either illegal strike or an alternative form of protest may be sanctioned by an administrative and judicial authorities to fines and to a restriction of one's freedom (art. 26 § 2 of the act on resolution of collective labour disputes).

3. Adhesion to the strike

3.1 Modalities of adhesion

There is no rules of conduct which must be followed by individual employees participating in a lawful strike established in the acts issued by the state. Art. 21 § 2 of the act on resolution collective labour disputes imposes an obligation upon the strike organizers to collaborate with an employer in matters related to protection of the enterprise's property and continuation of those processes and installations which cannot stop without risk to endangered human life, health or reinstatement regular function of the enterprise effected by the strike. In the past striking employees used to adopt the riles of conduct which ought to be respected by employees participating in strike. One of the was for example a total ban on alcohol during the strike.

Polish collective labour law is silent as far as the issue of modalitities of organization and participation in strike is concerned. Only once in the most recent history of the Polish labour the Supreme Court ruled out the hunger strike as the proper method of protest. The hunger strike cannot be treated as the proportional action to the result which striking worker wants to achieve.

Therefore the hunger strike is illegal because it violates art. 17 § 3 of the act on resolving collective labour disputes.[23] Any of the methods listed in scheme of topics to be covered such as hiccup, chessboard or slowdown strike were not considered illegal. Some of them were practiced.

3.2 Effects of the lawful strikes on the employment relationship

According to the Labour Code, workers are obliged to spend their company time working effectively (article 100 § 2 sec. 1). A striking worker obviously does not perform his/her fundamental duty. For that reason, work stoppages could be easily looked upon as a breach of the employment contract. They could lead to summary dismissal due to illegal behaviour, or – even more convenient for the employer – they may cause ex lege termination of the employment contract. Taking that into consideration, it was quite normal that striking workers demanded the introduction of legal provisions guaranteeing them job security during a strike. That security is not based on the same rights enjoyed by a vacationing employee. It would be too much to equate the rights of a striking employee to those of an employee enjoying special protection against termination of an employment contract with notice, due to personal or social reasons. But a striking employee enjoys special protection in a particular sense. He, or she cannot be discharged from work due to reasons connected with the strike only. The law on resolving labour disputes provides that participation in a legal strike does not allow an employer to treat a striking employee as an evader of work regulations. Thus, a strike cannot be treated as a breach of work discipline. Therefore, collective labour law adopted the legal principle of suspension of an employment contract in the case of a legal strike. The very fact that an employment contract is suspended during industrial action does not mean that it is automatically terminated by a worker who decides to refrain from working. It does mean that work stoppage does not constitute legal ground for the termination of a contract of employment by an employer due to disciplinary reasons. The worker is perfectly legitimate to excuse him/herself from working duties. During a legal strike, a worker is entitled to draw social security benefits (art. 23 § 2 of the act on collective labour disputes).

During a legal strike the economic burden of support for striking employees falls solely on their trade union. According to art. 80 of the Labour Code an employee retains his/her right to wages for the work performed. An employer has a legal obligation to remunerate not working employee only when that obligation is set up by the act of law. In case of not performing work by a striking employee neither the act on resolution labour disputes nor any other act does not impose an obligation to provide so called guaranteed salary to an employee participating in legal strike. Therefore, during legal strike an employer is relieved from obligation to provide wages to a striking employee. Trade unions are free to set up a special fund for the purpose of maintaining a minimal standard of living for the striking workers. The strike fund is out of the reach of state and its administrative agencies. From the point of view of workers

rights and privileges, the strike is treated on an equal basis, except for the loss of the remuneration which varies according to the actual rank and task performed of the specific striker. Theoretically, during the strike the employer is free to terminate the employment contract, due to economic or disciplinary grounds. Suspension of the individual contract of employment during the strike does not prevent the termination of the contract for other reasons than participation in the strike. Practically, however, a discharged employee will most probably claim that he or she was fired because of his/ her perfectly lawful strike activity.

3.3 Consequences of the unlawful strike

Workers who refrain from work under such circumstances, may be treated as those who arbitrarily leave their jobs, or may be disciplined by the employer. The Labour Code provides a variety of disciplinary measures against an uncoordinated employee. One of these measures is a termination from work. Such a work stoppage which cannot be qualified as a legal strike could be treated by the employer Supreme Court recognizes various degree of illegality of strike.[24] Only the most serious, conscious misconduct of an employee justifies summary dismissal under article 52 § 1 sec. l of the Labour Code. Less guilty striking employee may be dismissed with notice, transfer to lower position or disciplined.

There is no particular regulations concerning sanctions which may be applied to en employees participating in illegal strike. An employers may applied the penalties listed in articles 108 and 109 of the Labour Code: admonition, reprimand, cash penalty not higher that one day remuneration for each day of not reporting to work, in total within given month one-tenth of the remuneration. An employer may also decide to terminate an employment contract with an employee engaged in unlawful strike or changed the terms and condition of work and/or degrade the level the wages with such employee. The kind of labour law sanction depends upon an ill will of striking employee and the degree of illegality.

The economic consequences of strikes are expressed by certain economic damages caused to the employer or to the general public. After all, the strike is the economic weapon used to bring pressure on the employer and a third party (consumers, other employers, customers). There is a question only as to the extent those damages have to be tolerated by affected subjects. The next question is which party has to bear the responsibility for damages caused by an unlawful strike: the strike organizer, the trade union or the strikers? Taking into account civil law responsibility, there is no distinction between a lawful and an unlawful strike. Either one may cause damage for which somebody has to take legał responsibility.

One of the fundamental principles of the modern Polish labour law is that which assigns to the employer sole responsibility for the effective operation of the undertaking. Strike activity is aimed at disrupting this operation.

The law on resolution of labour disputes provides that an employer cannot curtail his legal activities concerning management of the working crew that had decided not to take part in an industrial action. The employer, or manager of the enterprise enjoys full power as far as protection of property which belongs to the enterprise under strike. The employer, or manager, is also obliged by law to maintain whatever technical devices necessary for the operation of equipment and/or processes protecting well-being and human life, in addition to the system required for the reinstatement of regular activity after the strike is over. To cope with the above-mentioned legal duties the strike organizers, whoever they may be, are obliged by law to cooperate with the employer or manager responsible for maintaining the enterprises under strike in proper shape (article 21 of the act on collective labour disputes). Does that regulation mean that any type of strike (lawful or unlawful) is privileged and not subject to the rules of the civil law of tort? The basic principle is prescribed by article 415 of the Civil Code, and is applied to labour relations according to article 300 of the Labour Code. This principle states that everybody bears responsibility for damages done by their malevolent action. But it should be mentioned that even during a lawful strike malevolent acts could be committed by the striking employees. As was mentioned above, article 17 § 3 of the law on resolution of labour disputes states that an original lawful strike may become unlawful due to excessive demands presented by trade union. An unlawful strike is by definition a malevolent industrial action. Modern Polish collective legislation does not constitute an exception from the striker's tort liability. Both trade unions as strike organizers and individual workers participating in some kind of unlawful industrial activity are liable in tort (article 26 § 3 of the law on resolving labour disputes). A certain change in the philosophy of civil responsibility – which is applicable in the case of infringement of the property of the enterprise – became evident since the change in ownership of means and tools of production was notified and accepted by the general public. Private ownership of enterprises requires greater care against actions which could cause damage. The strike is one of them. In a new political and economic environment, legal scholars have to look at the strike not only from the strikers' human rights point of view,[25] but also from property-oriented perspectives presented by the private owner employer. Comparing legal solutions introduced to the Polish collective labour law system with those of the international standards, it is possible to conclude the Polish national regulations dealing with strikes as well as the right to organise strikes are not in accordance with the principles obligating other international communities to which Poland is a member of. This article has not analysed the statute passed on the 23rd May 1991, dealing with collective dispute resolution. The below mentioned legal solutions introduced by the above statute, which remain in force, irrespective of the fact they are in conflict with international collective labour law standards, are as follows:

– Art. 20, a standard guaranteeing a trade union organisation (sec. 1) or an appropriate trade union body, mentioned in the statute dealing with several

work establishment trade union organisations (sec. 2), the right to declare a strike. Other regulations within the statute of 23rd May 1991 dealing with collective dispute resolution, use neutral definitions for describing the entities authorised to organise strikes (art. 7(1), art. 17(3)). The cited regulations grant the right to organise strikes to «entities representing the interests of the workers». Trade unions were given the monopoly in organising strikes and other protest actions, by being regarded as «entities representing the interests of the workers» in collective disputes with the employers, despite being one of the many organisations able to organise industrial dispute actions. This is considered as a breach of the international standards. Taking into consideration the order of time with which the collective dispute resolution statutes were passed, 1991 and 1997 (the Constitution of the Republic of Poland), it is possible to deduce, that the new Polish Constitution allows for the concept of trade union monopolies that is in breach with international collective dispute resolution standards. In order for national regulations to be in accordance with international standards, amendments must be made to the statute of the 23rd May 1991 and in the Polish Constitution.

– Art. 19(1) of the statute in question has defined the ban of the right to strike too broadly, with regards to workers employed in jobs involving installation plants and heavy equipment. This work, when temporarily stopped due to a strike action, is considered to put the life and safety of the community at risk. Such broad definitions may be used to limit or even deprive the worker of his/her fundamental freedoms, the right to strike.

– Forcing the right to declare a strike to be dependent upon a majority vote of the workers supporting the action, on the condition that fifty per cent of the workers comes to the ballot (art. 20(1) and (2)), creates an apparent drastic limitation of the right to organise a legal strike. The legality of a strike is made dependent upon the gathering of half the workforce, whereby half should show support for the strike.

Passing of the new Polish Constitution in 1997 was made possible thanks to the organisation of strikes and other protest actions in 1981 carried out by workers not associated in trade unions. Assemblies of *ad hoc* strike committees were acknowledged by employers and more importantly by governmental authorities acting on behalf of the governmentally owned workplaces, regarding such committees as valid entities able to organise such strike actions. Strikes were considered as a legitimate manifestation of the workers, who were able to take advantage of their just right to have their economic, professional and social interests protected. This was made possible as there was a lack of labour law legislation dealing with strikes in the former People's Republic of Poland. International standards expressed through the ILO No. 87 and 98 Conventions as well as the European Social Charter of 1961, however, were widely known, although not necessarily ratified (in the 1980s during the valid striking period in Poland, the country still had not ratified the Charter). It was not until the emergence of a democratic and independent Poland, that the appropriate statutes

were passed, enabling a legal platform for differentiating between the right to organise a strike (which ensured exclusivity to trade unions) and the right to strike as a subjective right assured to individuals, i.e. workers. Neither did the statute of 23rd May 1991 nor the Constitution of 1997 provide protection for the right to strike by way of law. Concentrating solely on the three abovementioned national regulations, that are in conflict with the international standards of collective labour law, it is possible to argue that if the current regulations were in force in 1981, governmental authorities would have had an easy opportunity to counteract the strikes by being able to view the strikes according to the national regulations as illegal, regardless of the strikes being recognised according to the international labour law standards.
The most valid issue when assessing the 1997 Constitution in light of the democratic legal order of an independent country and its matters regulated by collective labour law regulations, is for the Constitution to be adaptable to international standards as well as to other labour law regulations that are in accordance with such standards. It is also crucial for international treaties to be ratified, such as the Revised European Social Charter passed by the Council of Europe on 3rd May 1996, which establishes a higher level of protection for workers' rights. Evaluating the Constitution in conjunction with the protection of the right to strike, it is possible to deduce the Constitution was passed in a legal vacuum, isolated from most of the international collective labour law standards. We should not allow for the following decade to be wasted in a similar fashion. We have to ratify international treaties, which assure, in today's times, a high level of worker rights protection.

3.4 Wildcat strikes and strikes called by occasionally organized workers
Any strike which is not organized accordingly with the rules stated in the act of May 23rd, 1991 r. on resolution of collective labour disputes is considered illicit.

4. Employers during the strike
The Polish collective labour law does not mention any possible measures which an employer affected by strike may be egally taken.

4.1 Lock-out
There is no other action than lock-out which may be undertaken by an employer as an retaliatory of preventive measure which could be applied against striking or ready to strike employees. The legality of pronounce lock-out under the Polish collective labour law is unclear.[26] Generally speaking, from the fact that there is no legal recognition of the lock-out as an official employer's weapon, some legal consequences are inferred as far as the individual contract of employment is concerned. However, by claiming the business necessity the employer can achieve results similar to an offensive, defensive, or preventive lock-out, and the employer is free to terminate any type of contract of employment with notice, with the privilege of considerably shortening the required

termination period. By way of declaring liquidation of the enterprise, or bankruptcy due to economic reasons, an employer terminates all employment contracts on his own initiative. An implicit decision to lock-out is in fact treated as a collective termination of the employment relationship. Therefore, in fact, the exercise of the lock-out is subject to the same rule applied in the case of an ordinary dismissal due to economic reasons, and is regulated by the Labour Code: article 361, and the Act of March 13, 2003 on Collective Dismissals.

4.2 Consequence of the strike on no-striking workers

Article 21 § 1 of the law on resolution of labour disputes enables the employer, or manager of the enterprise to take any action he thinks necessary in regard to non-striking employees. Tackling that issue from a collective labour point of view, non-striking employees could not be considered as strikebreakers if they resume their regular duties. The question becomes more complicated if non-striking employees agree to take over tasks performed by striking employees. If this type of activity is not vital to maintain certain services named in article 21 § 2 of the law on resolving labour disputes, and those employees who volunteered to perform an additional job at a lower rate, or the same rate paid to striking workers who demand higher wages, the recruitment of workers already employed could be considered as strike-breaking activity on the part of an employer.

Non striking employees whom an employer struck by the strike is unable to provide with work to carry on are entitled to wages guaranteed by art. 81 § 1 of the Labour Code since they are ready and willing to perform their regular tasks. An employer is obliged to pay them their hourly or monthly rates to which they are entitled for showing their readiness to work. If those rates are not listed, non striking employees who are willing and ready to work are entitled to 60 per cent of their salaries paid while they actively performed their working obligations. In any case non striking employees cannot get less than the monthly minimal wages established by the state accordingly to the Minimum Wages Act of October 10, 2002.[27]

5. External elements linked to the effectiveness of the strike

5.1 External elements impeding the strike

The lack of financial resources of trade unions and an attitude of general public toward strikes ought to play an important role in decision making process of prospective strike organizers whether or not to call on strike. According to information provided by the most current Rocznik Statystyczny (Concise Statistical Yearbook of Poland, Warsaw 2010[28] during past twenty years the number of strikes fluctuated – went up and down. Compare the table:

Year	*Number of strikes*	*Number of strikes*	*% of employees*	*Number of working days lost*
1990	250	116 000	–	–
1995	42	18 100	–	–
2000	44	7 900	27,5 %	74,300
2005	8	1600	33,2 %	400
2006	27	23 600	–	–
2007	1 736	59 900	–	–
2008	12765	209 000	47,21 %	275,800
2009	49	22 400	0,08 %	9, 100

This phenomenon took place due to the fact that according to last published results of the pool conducted in May 1998 by Ośrodek Badania Opinii Publicznej - OBOP (Centre for Conducting Survey of the Public Opinion) 47 per cent of the Polish population supported strikes while 46 per cent were against such pressure upon employers.[29]
Taking into account of those figures I am inclined to say that any institutional parameters outside the law do not make exercising the right to strike more difficult.

5.2 External elements supporting the strike
I did not conduct any research of press releases concerning the strikes which occurred in Poland. However, very brief survey of publications related to strikes presented on internet allows me to state that majority of the press opinions were inclined to present a positive view toward strikes.

5.3 Forms of international support for union activity
I could not gather any sound information in that matter. From time to time on internet were reported some action undertaken by international trade union organizations, mostly British to support demands of striking Polish workers. It seems that the above mentioned support was mostly moral since no information related to any financial support was published.

6. Alternative means of dispute resolution
The law on resolving labour disputes allows exercise of the freedom to strike in cases where labour disputes cannot be solved in any other way. The strike is considered by collective labour law as an ultima ratio type of industrial weapon. There are a few stages in the resolution of labour disputes: negotiation, mediation, which are compulsory, and arbitration, which is an optional method of solving labour disputes.[30] The use of the strike is the last stage in which the differences between the parties to the conflict may be solved. The law on resolving collective labour disputes clearly states that the strike can be activated by trade union organizations after unsuccessful completion of the above-mentioned previous peaceful means of solving the industrial conflict. In principle, a strike which is called at the beginning of the industrial dispute, as often happens, is illegal. I wrote «in principle», since the current legal regulation on solving labour disputes allows trade unions to go on strike immediately, without having

to deal with negotiation, mediation, or arbitration requirements, if unlawful employer behaviour made it impossible for the trade union to start the necessary proceedings which usually ought to precede the decision to strike. There is also an opportunity to call a legal strike without completing the earlier stages of the peaceful means of settling labour disputes, in case the employer decided to dismiss the trade union representative responsible for conducting labour negotiations (article 17 § 2). Moreover, there is a severe shortage of legal sanctions which can be applied in case the trade union started the strike at an early stage of the industrial dispute. There is virtually no organ (either judicial or administrative) responsible for solving this type of disputes responsible for adjudication of strike legality. According to the Supreme Court order of February 17, 2005[31] declaration of legality of the strike by the criminal court does not have any binding influence upon the labour court adjudication employment case concerning participation in illegal strike by an employee summarily discharged by the employer for taking part in illegal strike.

The law on resolving labour disputes provides that the trade union «may not use its right to make a decision concerning strike», and at the same time present the case for arbitration (article 16 § 1). There are two important issues which have to be discussed in this respect. First, despite the fact mat the law uses the word «right» instead of «freedom» or «liberty» to start a strike, it does not imply that the unions enjoy the right to strike. What is meant under such circumstances is that a trade union is entitled to postpone, or for the time being give up its organizational opportunity to general workers' freedom, or liberty to stop working. There is a relationship between freedom or liberty to strike, and the right and duty to organize a strike after a decision is made by workers eager to use their freedom. The law of labour disputes does not differentiate between the words «freedom to strike», which is used to describe what is purely a workers activity undertaken en mass, and the action itself, «the right to strike» which can be organized by the trade union. In article 16 § l of the law on resolving collective labour disputes, the trade union is granted the privilege of postponing its right to organize a previously announced industrial action, together with demands presented to the employer on the workers' behalf. Secondly, the decision concerning arbitration depends entirely on the position of the trade union. The employer does not possess any formal power to initiate arbitration proceedings, or to withdraw from such proceedings. As far as the arbitration procedure is concerned, the present law replaced a former one (Trade Union Act of 1982), which provided for compulsory arbitration with an advisory or binding award, depending on the decision of the party to the labour dispute. As far as the legal status of the arbitration award, the present law maintains two possibilities: First, The award might be an advisory award which does not bind the parties unless one of them makes a statement to the contrary. If such a statement is made, the award has only the legal effect of a recommendation. Secondly, the award might be of a binding nature, and the choice in this respect is imposed by the trade union only.

There two types of arbitration committees composed of one professional judge designated by the president of district labour court and six laymen, half of it represent workers and the second half employers. One of those committee is called a local one while the second one bear the name «the national arbitration committee». Later one is attached to the Supreme Court Labour, Social Security and Public Affairs Chamber. President of that chamber nominates a Supreme Court justice who chairs the meetings of the arbitration committee whose legal responsibility is settlement of «multilocal» collective labour disputes. Thus, local dispute involves interests of employees employed by one employer while «multilocal» dispute embraces demands presented to more than one employer by employees employed by their respective different employers.[32]

NOTES

[1] *Journal of Laws,* No. 54, item 277. See commentary to this act written by G. Bieniek, J. Brol, Z. Salwa, *Ustawa o związkach zawodowych.* Komentarz (Trade Union Act. Commentary). Warsaw 1983.
[2] On these negotiations, from a legal point of view, see L. Garlicki, Refleksje nad charakterem Porozumienia Gdańskiego (Reflections on Character of Gdańsk Agreement), *Państwo i Prawo (State and Law),* No. l, 1981; M. Pliszkiewicz, Porozumienia ogolnpolskie i ich znaczenie dla prawa pracy, *Państwo i Prawo (State and Law).* No. l, 1981; *(State and Law),* No. 6, 1981.
[3] See W. Masewicz, *Strajk (Strike).* Warsaw 1986, p. 205 ff.
[4] See Commentary to the Civil Service Act of 16 September 1982 written by A. Swiatkowski, *Komentarz do pragmatyki urzędniczej (Civil Service Act. . Commentary),* Warsaw 1988, p. 121 ff.
[5] On the question of trade union registration see G. Bieniek, «Sądowa rejestracja związków zawodowych » (Courts Registration of Trade Unions), *Praca i Zabezpieczenie Społeczne (Labour and Social Security),* No. 3, 1983.
[6] Supreme Court order of July 14, 1983 (I PRZ 38/83), OSNCAP (S. Ct. Reporter) No. 1, 1984, item 18.
[7] Supreme Court order of January 27, 1984 (I PRZN 1/84), OSNCAP, No. 8, item 146. Both St. Ct. orders listd in footnote 56 and 57 were analyzed by A. Świątkowski, Przegląd orzecznictwa Sądu Najwyższego w sprawach z zakresu prawa pracy i prawa ubezpieczeń spolecznych za rok 1984 (Review of the Supreme Court Decisions in the Field of Labour Law and Social Security Laws, 1984), Warsaw 1986, pp. 62-64.
[8] This topic was brought by A. Świątkowski, Kompetencje związków zawodowych w sporach zbiorowych pracy (Scope of Power of Trade Union in Labour Dispute) [in:] Kompetencje związków zawodowych (Scope of Power of Trade Union), ed. A. Świątkowski, PWN, Cracow-Warsaw 1984, p. 349 ff.
[9] *Journal of Law*, No. 55, item 236 as amended.
[10] Consolidated act, May 31, 2001, *Journal of Laws*, No. 79, item 854 as amended.
[11] Supreme Court order of February 2, 2007, I PK 209/06, Monitor Prawa Pracy (Monitor of Labour Law) 2007, No. 8, p. 412.
[12] See A. Swiatkowski, Fundamental Principles of Trade Union Freedom in Poland, Political Science Yearbook, Vol. 15, 1984, p. 93 ff; A. M. Świątkowski, Ochrona praw człowieka w świetle przepisów prawa pracy i zabezpieczenia społecznego (Protection of human rights by labour law and social security laws) [w:] Każdy ma prawo do... (Everybody has a right to...), C. H. Beck, Warsaw 2009, p. 23 ff.
[13] For further informtion see R. R. Ludwikowski, *Continuity and Change in Poland*, The Catholic University of America Press, Washington, D. C. 1991, p. 23.
[14] On the classification of strikes see T. Zieliński, Strajk (Aspekty polityczno-prawne) [Strike. Political and Legal Aspects], Państwo i Prawo (State and Law) No. 4, 1981; A. M. Świątkowski, Strajk (Synteza zjawiska) [Strike. Synthesis of the phenomenon], Monitor Prawa Pracy (Monitor of Labour Law), No. 2, 2011, pp. 68 ff.
[15] A. M. Świątkowski, *Charter of Social Rights of the Council of Europe*, Kluwer Law International 2007, pp. 232 ff.
[16] Supreme Court order of January 20, 1986 KASN 6/85, OSNCAP (S. Ct. Reporter), No. 1,1986, item 188.
[17] Supreme Court order of November 11, 1997, I PKN 393/97, OSNAPiUS (Court Report) 1998, No. 17, item 511.
[18] K. W. Baran, Zbiorowe prawo pracy. Komentarz (Collective labour law. Commentary), Wolters

Kluwer, Warsaw 2010, p. 475 ff.
[19] Supreme Court order of November 11, 1997, I PKN 393/97, OSNAPiUS (Supreme Court Reporter) 1998, No. 17, item 511.
[20] See G. Bieniek, «Kilka uwag na temat pojęcia akcja protestacyjna» (Some Remarks on the Notion of Industrial Action), *Problemy Praworządności (Problems of Justice),* No. 5, 1983.
[21] A. Swiatkowski, *Poland*..., cit., p. 157.
[22] See A. Swiatkowski, *Kolektywny aspekt w prawie pracy w ujęciu porównawczym (Collective Aspect in Labour Law. A Comaparative Study)*, Archivum Iuridicum Cracoviensae *(Cracow Archive of Legal Studies),* Vol. 15, 1982, p. 31 ff**.**
[23] Supreme Court order of November 11, 1997, I PKN 393/97, OSNAPiUS (Court Report) 1998, No. 17, item 511.
[24]Supreme Court order of February 7, 2007, I PK 209/06, *Monitor Prawa Pracy* (*Monitor of Labour Law*), 2007, No. 8, p. 412.
[25] Polish Supreme Court in its order of February 7, 2007 I PK 209/06, *Monitor Prawa Pracy* (*Monitor of Labour Law*), 2007, No. 8, p. 412 presented strike as the worker's fundamental human right
[26] A. Swiatkowski, *Lockout as the Old Labour Problem in the New Environment of a Post-Socialist Country*, in: *Labour Law and Industrial Relations at the Turn of the Century. Liber Amicorum in Honour of Roger Blacapain*, eds. C. Engels, M. Weiss, Kluwer Law Internaional, The Hague, London, Boston 1998, pp. 431 ff.
[27] *Journal of Laws*, No. 200, item 1679.
[28] Table 11 (90) Strajki (Strikes), p. 153.
[29] *Opinie Polaków na temat napięć, strajków i największych problemów Polski* (*Opinions of Poles in matters related to political and social tensions, strikes and the biggest problems in Poland*), Warsaw, May 1998. In favour of strike were young people (under age of 30). Against were older people who were better educated.
[30] See M. Matey, *Industrial Law and Industrial Relations in Poland*, Kluwer 1988, p. 160 ff.
[31] II PK 217/04, OSNZbUrz (Supreme Court Reporter) 2005, No. 18, item 285.
[32] See the Supreme Court order of January 26, 2006, III KAS 1/05, OSNZb. Urz. (Supreme Court Reporter), 2007, No. 3-4, item 59.