

# RECRUITING IN POLAND

Getting it right first time.





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## Forward to the recruitment guide

Each territory in which you do business will be different in some way. Laws, customs and culture vary to some degree, even within Europe. Coming to terms with local legal regulations with the right advice is likely to be the easier part, understanding the local business and social culture on a deep enough level to sustain successful business relationships can be more of a challenge.

It is important for the success of your international business that you recruit people to lead your business who fully understand your products and services and act in your company's interests and within your business culture. A successful recruit in an overseas market with the right support can ensure your business flourishes into the long term. Not having the right resources can delay your market entry and make it difficult to do business in the market.

We in Enterprise Ireland continually receive requests for advice on recruitment of key people for the Polish market. We collaborated with Seamus Pentony in Headcount Solutions and with Elżbieta Gutkowska and Agnieszka Lisiecka of Wardyński & Partners to produce this guide with the objective of providing you with professional advice from experts with the required depth of experience in Poland to address many of your frequently asked questions.

Our team in Poland is here to proactively help you to grow your business whether you are already an established exporter to the market or are just getting started. Having the right resources in place will be invaluable for you and we hope this guide will be of assistance to you in getting the right people to lead your Polish business.



**Karen Cohalan**  
**Manager Enterprise Ireland Poland**  
**Commercial Counsellor**  
**Embassy of Ireland**

## Setting up a presence in Poland

### A guide to recruiting by Seamus Pentony – Regional Managing Partner - Headcount Solutions Poland.

Seamus Pentony is an Irish national living and working in Poland from 2001. He began his recruiting career with another Irish company in the early 90's, and is one of the founding partners of Headcount Solutions Poland.

Seamus has achieved wide recognition across, not only the Polish market, but CEE and CIS region for delivering senior skills across a variety of sectors and industries. He is known for dealing in skills and competencies' rather than sectors.

At present he is conducting extensive searches across the CIS and Russia as companies use the base of Poland to expand eastwards.

About Headcount Solutions:

Headcount Solutions Ltd was formed in Dublin, Ireland in early 2005 by three experienced professional engineers with extensive knowledge of recruiting, resourcing and managing project teams for the design, construction, commissioning, start up and ongoing operations of process, manufacturing, industrial, infrastructural and commercial facilities. Headcount offers an exciting new alternative principally because of the experience of its key senior players. Stephen Kelly, Rory Devlin and Donal Flynn have been well known and respected names within the design, construction, process and manufacturing sectors in Ireland and abroad over the past twenty plus years. Joining the founding team in early 2006, Seamus Pentony, a highly experienced recruitment professional with over 10 solid years in an International based capacity, has reinforced our market entry in the emerging markets and beyond. Based in our Warsaw office, the team covers the entire region, bringing a depth of expertise, experience and knowledge that positions Headcount as a leader in personnel placement.



**Seamus Pentony Regional Managing Partner  
Headcount Solutions Poland.**

## Executive Summary:

Traditionally social and business relations between Ireland and Poland have been strong. Similar socio-infrastructure and religious background, coupled with the influx of Polish migrants into the Irish economy, helping to sustain the growth, which has been achieved, in the last number of years.

As the pressures come to bear in a global context, and the mass exposure Irish industry has gained about Poland, the realisation that an economy of 38 million people is worth looking to for additional growth. And the geographical location, opens many other possibilities for expansion.

The fundamental understanding of the Polish, and any 'Central European' market will be achieved by a thorough due diligence on the economy in question. When doing business in Poland, people constantly complain about the bureaucracy they have to endure!! But therein lies an issue: the Polish 'system' is effectively 19 years old!! The wall came down on November 1<sup>st</sup> 1989, and I think it's fair to say that the economy, and how it operates, has achieved outstanding progress in such a short space of time, taking into consideration the scale!! When accession of the 10 new member states occurred on May 1<sup>st</sup> 2004, Poland accounted for 56% of the population accession!! 1 market..

As with any international expansion plan and developing a footprint in the target economy, you must get it right first time. This invariably will lead to local knowledge and expertise, and this is where Enterprise Ireland gives impartial and invaluable support.

On your decision to enter the Polish market, you need to sit down and agree what your objective is, and the timescales involved. Your recruiting partner will guide you in this regard. They will also give you a clear insight as to the skills availability and timescales involved. This brings us to the following key factors:

- > **Status** – whilst you may be successful and a recognised company in Ireland, to try to get that branding message across in Poland poses it's own issues
- > **Demographics** – Poland is one of the most demographically unique countries in Europe in so far as the capital, Warsaw, has a population of 1.3 mln people and there are several cities with populations of 500,000 .... Only 4% of the population are located in the capital!!

- > **Education** – here is what really stands out from the Irish or any system. Graduates are, on average, 27 years old!! Why? Most work their way through studies and earn their degrees through evening and weekend studies with intermittent block courses. A significant number of graduates will also have 2 degrees and will also continue with further education. Hunger, is an understatement, for education and personal advancement.
- > **Culture** – this is the area most underestimated in terms of understanding. Whilst a candidates experience(s) may imply actual hands-on expertise, this may not be the case. A lot of managers 'manage' – they don't actually roll-up the sleeves and get 'stuck in' as we understand it. The business culture is extremely formal and hierarchal. To expect a manager to perform perceived lower grade tasks and duties, is a complete assumption and certainly not a given! Because business can be so formal, there is a tendency to misinterpret urgency. Urgent, depending on the business sector could mean within the month, not today. Be aware of these crucial cultural issues.
- > **Salaries** – whilst salaries are not quite at Irish levels, when you get into senior management, the differences are negligible but, in specific business sectors, actually surpass Irish salary levels purely due to the demand and shortage of given expertise. Generally, however, as a rule of thumb there is approx 10 – 15% of a difference (see salary scales later) and employer costs are approx 20.72% which is made up of a plethora of Social insurances, health levies etc etc etc
- > **Notice Period** – if someone is with a company less than 3 years, the notice period is 1 month and over 3 years it is 3 months. There is generally, however, negotiations that typically release candidates from the 3 months notice unless different conditions have been negotiated and non-competes have been included.

## The Challenge of Recruiting:

- > Getting the profile right is the key. Your recruiting partner can and will advise you as to the availability of such a profile in the Polish market. This is the first and most important step.
- > The method of recruiting is the next step. With a population of 38 million, the task is a daunting one. Have you a timeframe in mind? What is your target audience? How/what/where/when?? All these questions will cost you resources as well as money and getting it wrong, even more so! Investment or cost – with recruiting partners there are guarantees and warranties in place. Alone or the direct route, there is no cushion. This is what will ultimately govern your method of recruitment.
- > Reference Check on possible hires is a must. Always use telephone conversations for references as you can ask the appropriate questions relative to your requirements for a correct match.
- > The Counter Offer. This is where the candidates' current employer, or another party, raises the stakes in an effort to try and hold onto, or attract, the employee. Be prepared, and in conjunction with your recruiting partner, the risk of this can be significantly reduced.

## Getting it right first time:

Recruitment partners are often viewed as a necessary evil rather than as a legitimate business partner. The thoughts of having to pay 3 to 4 months salary in fees is viewed in a very unfavourable light. Yet, when you break it down, and you recognise the risk reduction this investment is bringing, the value added details of structuring the whole remuneration package, the knowledge of what the 'real' markets are for this skill set, not to mention the minimising of a costly bad hire! The damage a bad hire can do, not only monetarily, but reputation wise, is immeasurable. And then you have to increase the attraction mechanism to ensure that similar candidates are interested, is an arena you do not want to enter.

For Irish companies recruiting in an Irish market is difficult enough, when you now enter foreign soils, the potential and exposure to risk are immense.

## Good people follow good people

The first hire is the key hire. The key to the future.

An internationally accepted fact. Not only in terms of presence on the Polish market, but the recognition and respect the branding will gain by having the right person in-situ. The additional benefit will be the attraction of additional hires allowing scope and development and the opportunity to springboard to other eastern markets.

## Recruiting in Poland 2008/2009:

There has been a distinct increase in demand for Polish management and this has reflected in the conditions required, not only to retain current staff, but also in attracting staff. There is no indication that this trend will reduce in 2009.

Competition for companies entering the market will pose a challenge. What attraction mechanisms can be used to ensure you attract the right staff? This is where your recruitment partner ensures value-added is achieved. They will advise accordingly and assist in getting the pitch right, thus ensuring the best available skills required will be made available.

On achieving the selected skills and experience that are required for your role, the vast majority of searches will be specific direct search. This means targeting specific individuals who have achieved the required level of experience, expertise and product knowledge in order to achieve your objective and ensure that you 'hit the ground running'.

When choosing a recruiting partner, as any business partner, do a reference check on them too, and be sure they are who they say they are, and therefore you are ensuring that they have the track record and experience to maximise the win scenario for you.

One specific cautionary note must be mentioned. The Polish Data Protection Agency is extremely sensitive and protective about information and the rights that lie therein. Included in this information are candidates CV's or Resumes. When you receive candidates details, do not pass them onto a 3<sup>rd</sup> party without their written consent. This will protect you from possible litigation.



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## 1.0 Know what to expect

Without knowing what the market has to offer it is next to impossible to define a job specification which makes sense and is in line with what the business needs versus what the market can yield.

Evaluating and benchmarking candidates coming out of a different „system” is a challenge in itself and thus it is important to understand the main ways in which Polish candidates may differ from their Irish peers in terms of education, age, culture, background and expectations.

## 1.1 Demographics

Poland is a quite centralized and homogenous market. Warsaw, the capital, is assumed to be the major business centre. Apart from Warsaw, there are few urban centres and regions where the business is concentrated.

In terms of population the largest cities are

<b>Warsaw</b>	1 700 500
<b>Lodz</b>	778 200
<b>Krakow</b>	733 100
<b>Wroclaw</b>	632 200
<b>Poznan</b>	581 200
<b>Tricity( Gdansk, Gdynia, Sopot)</b>	456 700

(status on 31.12.2007, by Central Statistical Office)

As seen above, there are only 5 cities with more than 500,000 population and 18 with more than 200,000. However, it should be kept in mind, that apart from the cities listed above, there is Katowice agglomeration – which consists of few neighbouring cities with more than 3,5 mln inhabitants in total.

There are 16 administrative regions called voivodeships that do not vary in terms of school systems, infrastructure, labour and the legal system, which makes eventual relocation process possible and quite smooth.

- » Warsaw, the capital, is the most preferable place to relocate to.
- » The highest starting salaries in Poland are in Warsaw (mazowieckie region) followed by Wroclaw (dolnoslaskie region), Gdansk (pomorskie region), Krakow (malopolskie region) and Poznan (wielkopolskie region). The lowest – in podkarpackie region.
- » In terms of rental property these 5 urban centres lead the market:

### Most expensive cities by rent

- » Tricity (about 35% higher than national average)
- » Warsaw
- » Krakow
- » Wroclaw
- » Gdansk



## Region comparison

(based on the information published by Polish Information and Foreign Investment Agency: [www.paiz.gov.pl](http://www.paiz.gov.pl))

State	Main City	Main Industries
Dolnoslaskie	Wroclaw	<ul style="list-style-type: none"> <li>» IT and communications technology/ High-Tech</li> <li>» Automotive, electro-mechanical, energy, FMCG</li> <li>» Also traditional industries: mining</li> <li>» 3 Special Economic Zones</li> <li>» Strong Germany ties</li> </ul>
Kujawsko-pomorskie	Bydgoszcz/ Torun	<ul style="list-style-type: none"> <li>» The chemical industry</li> <li>» High-Tech</li> <li>» The mechanical industry</li> <li>» Food processing</li> <li>» Traditionally agricultural region</li> </ul>
Lubelskie	Lublin	<ul style="list-style-type: none"> <li>» BPO (Call Centre),</li> <li>» Logistics,</li> <li>» Mechanical industry</li> <li>» Food processing</li> <li>» Tourism</li> </ul>
Lubuskie	Zielona Gora	<ul style="list-style-type: none"> <li>» Timber, electrical industry, Food processing</li> <li>» 1 Special Economic Zone</li> <li>» Strong Germany ties</li> </ul>
Lodzkie	Lodz	<ul style="list-style-type: none"> <li>» Domestic appliances</li> <li>» BPO sector (accountancy and bookkeeping, banking and finance, computer programming and IT centres)</li> <li>» 1 Special Economic Zone</li> </ul>
Malopolskie	Krakow	<ul style="list-style-type: none"> <li>» BPO (accountancy, finance, telecommunications, business) High-Tech, the motor trade, Tourism</li> <li>» 1 Special Economic Zone</li> </ul>
Mazowieckie	Warsaw	<ul style="list-style-type: none"> <li>» Trade, telecommunications,</li> <li>» Financial services - No. 1, insurance,</li> <li>» IT, the motor industry and petrochemicals.</li> </ul>
Opolskie	Opole	<ul style="list-style-type: none"> <li>» Building and construction, The chemical industry,</li> <li>» Food processing</li> </ul>
Podkarpackie	Rzeszow	<ul style="list-style-type: none"> <li>» The aviation industry</li> <li>» The close proximity of the developing markets of central and eastern Europe</li> <li>» 2 Special Economic Zones</li> </ul>
Podlaskie	Bialystok	<ul style="list-style-type: none"> <li>» The mechanical industry (production of tractors, lawn mowers, tools and components for machines)</li> <li>» Food processing</li> <li>» Location on the borders of Lithuania and Belarus,</li> <li>» 1 Special Economic Zone</li> </ul>
Pomorskie	Gdansk	<ul style="list-style-type: none"> <li>» Traditional maritime industry</li> <li>» High-Tech</li> <li>» Logistics (container terminals, freight transfer centres, cargo delivery, logistics, warehouses and distribution)</li> <li>» 2 Special Economic Zones</li> </ul>

State	Main City	Main Industries
Slaskie	Katowice	» BPO, High-Tech, Automotive Industry » Katowice has the status of the Special Economic Zone » It is the most heavily industrialised and urbanised region in Poland, » 1 Special Economic Zone
Swietokrzyskie	Kielce	» Building and construction, Metallurgy » Rest and recuperation health services » Place of 1 Special Economic Zone
Warminsko-Mazurskie	Olsztyn	» Timber industry, Alternative energy, Food processing » 1 Special Economic Zone
Wielkopolskie	Poznan	» Logistics, BPO, Automotive Industry » Located on the East-West transit route,
Zachodniopomorskie	Szczecin	» BPO, Timber industry » Logistics, Automotive industry

## 1.2 Education, Age and Qualification

In general, children start school later than in Ireland (7 years old). They attend to primary school for 6 years, the second step is gymnasium (3 years).

Afterwards they may choose from the 3-year secondary school or 4-year technical secondary school (both of them for those who want to pass the A – exams which enable to enter the university/college) or basic vocational school (that prepares for the specialized profession, no A-exams).

Males still (until the end of the 2008) have 9 months obligatory military service (or alternative).

Full university degree (MA) takes an average of 10 semesters. BA degree lasts 6 semesters.

There are two studying options: full-time (every day classes) and non full-time (weekend classes).

**Both male and female graduate tend to be in their mid twenties when entering the workforce.**

**It is however not unusual to start professional career during studies (this applies to the non full-time students).**

This is important to remember when defining age and experience levels required for a position in particular when benchmarking against Ireland.

After the A – Exams (called “matura” in Polish) which allow to apply for the admittance to the university, candidates may study at the public or private ones.

They can also chose Post Secondary School that provide practical professional courses, but don't give an academic degree. But it is rather an uncommon choice.

In Poland there are currently over 126 public academies - 17 universities and 22 universities of technology and lots of private colleges (around 300) - which usually have the right to certify only with BA degree.

The possible degrees to get in Poland:

- **Diplom – Bachelor's Degree (BA)**
- **( 6 semesters)**
- **Diplom – Master's Degree (MA)**
- **( 10 semesters)**
- **Diplom-Ingenieur = Engineering Degree**
- **(applies to technical universities)**
- **( 7 semesters)**

## University

Most Polish universities are public state owned, currently there are 17 of them. They have a limited number of places and guarantee an above average, prestigious education. Their graduates generally enjoy high demand on the market. There are also a couple of private colleges, most of them located in Warsaw, that are well recognized by the employers.

Most prestigious universities have begun to offer „Bachelor” degree courses in alignment with European harmonization but it is still not a standard. The most popular are Master Degree courses (10 semesters).

## Polish's top ranked Universities

### Economics

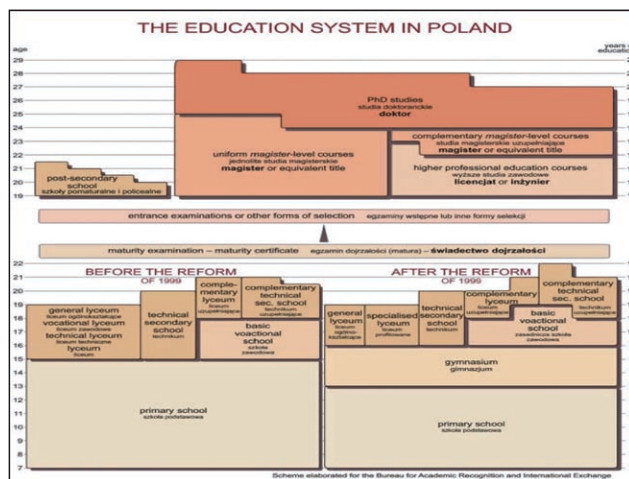
- » Warsaw School of Economics
- » Oskar Lange's Academy of Economics in Poznan
- » Karol Adamiecki Academy in Katowice
- » Academy of Economics in Crakow
- » Business College in Wroclaw
- » Kozminski Academy of Entrepreneurship & Management University

### IT

- » University of Warsaw
- » Jagiellonski University in Cracow
- » Adam Mickiewicz University in Poznan
- » AGH University of Science and Technology in Cracow
- » Warsaw University of Technology
- » Wroclaw University of Technology
- » Gdansk University of Technology
- » Wroclaw University
- » Gliwice University of Technology

### Law

- » Warsaw University
- » Jagiellonski University in Cracow
- » Adam Mickiewicz University in Poznan
- » Ryszard Lazarski's college of Trade and Manangement
- » Catholic University in Lublin
- » Mikolaj Kopernik University in Torun
- » Gdansk University
- » Katowice University
- » Maria Sklodowska – Curie University in Lublin
- » Lodz University



## Engineering / Industrial Engineering / Process Technology

- » Poznan University of Technology
- » AGH University of Science and Technology in Cracow
- » Warsaw University of Technology
- » Wroclaw University of Technology
- » Gdansk University of Technology
- » Lodz University of Technology

## Private Universities in Poland (the best of them are located in Warsaw)

- » The Private College of Business and Administration
- » Polish – Japan College of New Computer's Technology
- » Ryszard Lazarski College of Trade and Law
- » College of Finance and Management
- » Kozminski Academy of Entrepreneurship & Management in Warsaw
- » Warsaw School of Social Psychology

## Post- Diploma Courses

Many of MA graduates decide to extend their knowledge and develop skills which they gained at the University. They take the so-called Post- Diploma Courses that enable to specialize in one of the business fields and develop various practical skills to be used at work.

## The most popular Post- Diploma Courses

- » Management
- » Economics
- » Finance
- » Public Relations
- » Marketing
- » International Trade

## 1.3 Salaries

In general salaries tend to be lower in Poland than in Ireland.

Salary (in PLN) due to the level of education: *(based on CSO)*

## Starting Salary

### Average Starting Salary Academic Level Graduates

	Ireland	Poland
<b>Engineers</b>	€25.000	€21,000
<b>Industrial Engineers</b>	€28.000	€21,000
<b>Business</b>	€28.000	€16,800

*(by Sedlak & Sedlak: [www.wynagrodzenia.pl](http://www.wynagrodzenia.pl))*

These are average values. Companies pay less for employees just after studies. This salary can be given after about 3 years of experiment.

A lot does depend however on the following factors so that an exact prediction is difficult:

<b>Size of company</b>	» Big pay better (up to 25 %)
<b>Location</b>	» City pays better than country
<b>Foreign/domestic companies</b>	» Foreign pay better than polish
<b>Function</b>	» Cross functional comparison (Average starting salaries € 22 .000) » IT » Manufacturing (Average starting salaries €15.000) » Finance » HR » Marketing » Sales
<b>Industry</b>	These segments pay more than others (average starting salaries € 25.000) » IT, Chemicals / Pharmaceuticals » Financial Services, High-tech » Energy » Electronics
<b>Degree / qualification</b>	University graduates and those with further qualifications e.g. MBA earn more

## AVERAGE SALARY PER INDUSTRY SECTOR

Industry Sector	Average salary (median) in Euro	25%earn more than
IT	15 882	25 000
Telecommunication	14 200	24 000
Insurance	14 200	24 000
Banking	13 500	24 000
Marketing/Sales/PR	13 000	22 000
Machinery Industry	12 350	20 000
Real Estate&Construction	12 000	18 000
Textile, food industry	11 300	18 000
Logistics, transport	11 000	16 000

Based on the info from wynagrodzenia.pl published by Sedlak & Sedlak

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## General Trends

Starting salaries for academics (MA or BA graduates) remain higher than for the others. In particular salaries for engineers, technicians, IT specialists are being pushed up by the scarcity of talent in the market.

## Variable Salary

It is becoming more and more common on the polish labour market to offer performance-based variable components on base salary (in particular in sales). The bonus systems may depend on

- » Reaching personal targets (turnover)
- » Overall company performance.

In general, good candidates are happy to accept a performance-related element in pay but it should be

- » Ideally in the ratio 70 % fixed : 30 % variable (maximum) depending on function
- » Clearly documented / measurable
- » Reachable

## Other Fringe Benefits

Company Car (standard in almost all sales related functions)

Preferred	Ford
Models	Opel
	Toyota
Occasionally	Skoda
Seldom	Audi, Mercedes, BMW
	SAAB

Offering a higher model / better accessories and extras can sometimes be a more convincing argument to “win over” a final candidate than incremental increases in the monetary offer.

- » Mobile and/or Laptop
- » Health Insurance (very common for managers)
- » Further training / education (language courses, MBA studies)
- » Profit Sharing
- » Entertainment package (e.g. gym, fitness)
- » Shares / Stock Options
- » Insurance programmes

An attractive “salary package” should contain at least some of the above fringes.



## 1.4 Notice Periods

There is only one type of notice period in Poland - statutory notice period. The shortest is of 2 weeks during the 3 to 6 month probation period, otherwise future employers may have to wait considerably longer before a candidate becomes available

### **Statutory notice period.**

The statutory notice period of an employee who has been with the same employer for

- » above 6 months up to 3 years is one month.
- » above 3 years is 3 months

Earlier release may however be negotiated.







## First step to successful Recruiting - Job specification

In general terms it is easy to define what type of candidate would be most promising for an Irish company starting a young business in Poland

However, this is only the outer packaging - the real difficulty is deciding what needs to be inside in terms of specific experience and contacts and this should be the ultimate driver of the recruiting process. Most companies know intuitively what to look for in the home market based on past experience and indepth knowledge of what the market has to offer as well as how to generate business in a known universe.

At a macro level the candidates will look and feel the same but on a micro level critical 'must haves' need to be clearly defined.

### 2.1 Education

Depending on who the decision makers in the client companies are, third level education may be essential. Natural sales ability and a "nose" for opportunity can open doors but if the "budget holders" with the Polish customer are academics / engineers by background, acceptance and image can be strongly influenced by the title on the business card.

The status of a full academic education or the benefit of

speaking the „lingo" of the engineer in Poland should not be underestimated. It often makes a subtle but significant difference.

### 2.2 Language skills

Fluent English is a must have. Even though daily business will be conducted locally, the value of fluent communication to and from the market should not be underestimated. Valuable synergies and knowledge transfer will be lost if the candidate does not feel comfortable with picking up the phone, not to mention participation in business and strategy meetings and / or acting as a benchmark and reference for the market.

The advanced knowledge of the English language among young Polish graduates and employees is quite common. Many of them possess also some of the well-known certificates, e.g. LCCI Business English certificate.

Candidates should be in a position to apply for the role and conduct interviews in English easily (first test).

### 2.3 Key Account Contacts

Should the candidate actually know and have dealt with decision makers within the customer environment he/she must have worked for a direct competitor and/or a company selling products or services to the same target.

This may mean that the candidate can only be found in a handful of companies and/or specific region. The narrower the target group the more focussed the

recruiting method must be and the more advice and support the hiring company will require in identifying and attracting the limited potential.

If prepared to do without first hand contact knowledge the hiring company may have a simpler recruiting process but a significantly longer lead time to winning business.

## 2.4 Specific Product knowledge

Depending on the complexity of the product / service, indepth technical know-how may be necessary to understand and sell the business.

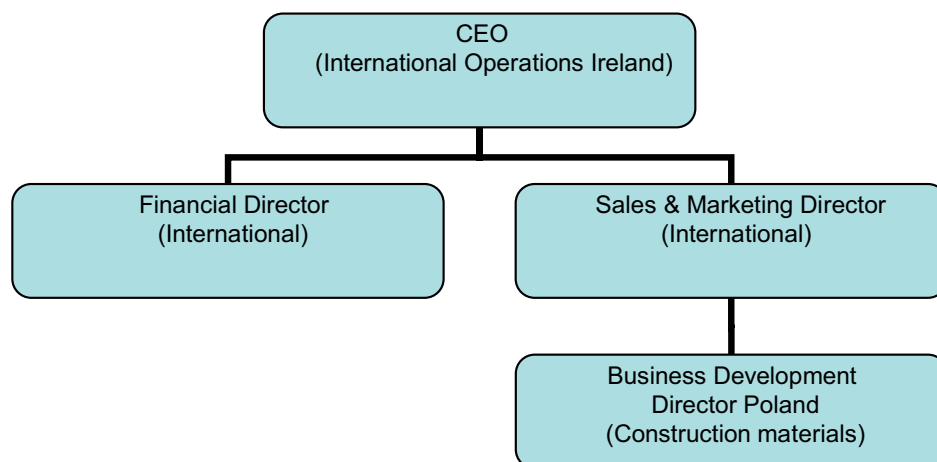
Once again this will determine the current working environment of the future incumbent and ultimately the size and location of the target group.

The trade-off between existing and trainable product knowledge should be carefully weighed up in deciding between must have / nice to have skills.

## 2.5 Home office versus local presence

Allowing the candidate to work from home will help circumvent regional / mobility issues and / or the cost of location. The hiring company pays a relocation package as a rule of thumb. However in terms of prestige and image a sales office will probably make more impact.

What is more, in Polish business environment home office is a quite new phenomena, rather uncommon, definitely not widespread. Therefore in terms of trustworthiness and business reliance it is better to set up an office.



## 2.6 Leadership experience

Good sales people don't necessarily make good managers - of people or businesses.

On the one hand candidates who have already headed up a team may be harder to attract to an initial one-man-show and cost more money.

On the other hand and depending on how the business is planning to grow locally in terms of headcount, the first hire may quickly need additional people, commercial and management skills.

Ultimately however the sum and weight of various requirements should determine the salary range which, as indicated, will probably tend to be higher than local salaries at the same level.

## 2.7 Seniority

In specific segments young, dynamic, modern executives are a recipe for success whereas more traditional industries may demand greying temples and membership in an "old boys network".

It should be also kept in mind that in some sectors of polish business political influence and political relations take a great part, therefore shouldn't be ignored.

Needless to say, one won't be successful in the other and thus some considerable thought must be given to the ideal „outfit and seniority" of the candidate.

Observing and analysis at industry events may help solve the problem and in general a good recruiting consultant who knows the segment should be able to give valuable input into weighting this criteria.

## 2.8 Salary

All of the above factors influence salary but so do budgets, internal structures and grades.

On the one hand the „market price" has to be paid and the requirements of the specification fulfilled but internal issues need to be taken into consideration.

## 2.9 Summary

Packing too many wishes into the job specification may lead to chaos. The 100 % candidate may not exist or not be motivated and in the hiring panic suddenly all criteria are forgotten.

It is important to rank requirements and put most emphasis on the most important priority in directing and managing the recruiting process.

Projected results and not salary alone should not dictate the profile.





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## Irish companies in Poland - a brief overview of Polish employment law

Wardyński & Partners is a large independent Polish law firm, having been in practice since the late 1980s. The firm now has 21 partners and over 110 associates.

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We have been recognized both locally and internationally as a market leader in a number of areas of practice.

We are based in Warsaw and have branch offices in Poznań and Brussels, and have acquired extensive knowledge of international transactions, which has meant a network of valuable and friendly relationships with law firms in other countries.



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## Introduction

A decision to commence business in Poland needs an analysis of both commercial factors and the law. Poland has since joining the European Community implemented much European employment law, but some minor inconsistencies still exist.

This memorandum is a brief overview of employment and labour legislation in Poland, and it is meant to only provide general information. It must not be taken to be providing legal advice. Advice must be sought on each specific set of circumstances, e.g. to assess whether other forms of engaging staff are possible.

### I. Applicability of Polish employment law

On 1 August 2007, the Rome Convention on the law applicable to contractual obligations dated 19 June 1980 came into force in Poland. The convention means that the parties to a contract of employment can choose a law to govern the contract, but an employee cannot be deprived of protection afforded by the law of country where the regular place of work is located. That, in essence, means that the conditions of work of an employee, irrespective of nationality, who permanently, or predominantly, works in Poland are subject to Polish employment law.

## II. Commencement of employment

### 1. Advertising for prospective employees

When advertising for prospective employees, an employer must comply with anti-discrimination legislation.

Polish law has implemented the Racial Equality Directive 2000/43/EC and the Employment Equality Directive 2000/78/EC and employees must be treated equally in matters of establishing, or terminating, employment, specifically on matters involving gender, age, disability, race, religion, nationality, political views, trade union membership, ethnic origin, religious convictions, sexual orientation, or because of employment for a definite, or an indefinite, time or full-time, or part-time. The catalogue of prohibition is wider than that in Directive 2000/78/EC. Equal treatment means lack of direct, or indirect, discrimination, for any of the reasons that have been specified.

The Polish law, however, provides that refusal to employ

for any of the specified reasons is not discrimination when the refusal is justified by the type of work that is involved.

A person seeking employment who has been subjected to discrimination can sue for compensation not lower than the statutory minimum pay.

There is no limit on the compensation that can be awarded for discrimination and an employer must take care that advertisements do not discriminate.

### 2. Interviewing and selecting employees

Polish law specifies the information that a prospective employee can be asked to give. The list is exclusive.

An employer can ask for the following personal information:

- > name (names) and surname
- > parents' names
- > date of birth
- > place of residence (address for correspondence)
- > education
- > work experience.

Additionally, an employer can ask an employee for:

- > other personal information, including names, surnames, and dates of birth of children, if that is required to enable a person to benefit from special rights provided by employment and labour law and
- > an employee's PESEL - a number given by the Rządowe Centrum Informatyczne Powszechnego Elektronicznego Systemu Ewidencji Ludności (the Government Information Technology Centre of the National System of Electronic Population Registration) (RCI PESEL).

An employer can request that the details be documented. Other personal information can only be requested when other legislation so provides.

All personal information obtained by an employer comes within legislation on protection of personal data.

An interviewee, therefore, cannot be questioned on matters not listed above, e.g., a female on pregnancy, marriage, etc. Where a question discriminates, or is on matters not mentioned above, an interviewee can simply tell an untruth, to safeguard privacy. Moreover, discrimination can mean that a claim for financial compensation will be made.

### 3. Form of a contract of employment

Polish law provides for two basic types of employment contracts: for an indefinite period of time and for a

fixed-term contract. Each can be preceded by a contract for a probationary period of a maximum of 3 months. A contract for a probationary period can only be concluded once between the same parties.

A contract of employment should be in writing, and should at least contain the parties, the type of contract, date of signing, conditions of work and pay, type of work, place of work, pay, amount of working time and work commencement date.

If a contract is not in writing, an employer must confirm to an employee no later than on the date an employee starts work, in writing, the arrangements the parties have, the type of the contract, and the conditions thereof. An employer also must notify an employee in writing, no later than within 7 days from the date of an employment contract, of:

- > daily and weekly working-time standards
- > frequency of pay
- > length of leave
- > length of notice
- > the collective labour agreement that applies and, if the employer is not required to have workplace regulations:
- > of night work hours
- > location, date, and time of pay
- > procedure to register arrival and presence at work, and sick leave.

Failure to provide the additional information, however, does not mean that any adverse consequences will apply. The provisions of an employment contract cannot be less favourable to an employee than that provided by employment and labour law; those that are less favourable are void, and the provisions in legislation will apply.

#### 4. Fixed-term contracts

It is important to consider the following when entering into a fixed term contract:

- > Polish law does not provide a maximum period for the contract. In practice, in the absence of specific justification, anything longer than 2 or 3 years could be deemed to be a contract for an indefinite period of time.
- > The contract cannot be terminated by serving notice, unless it is for more than six months, and the contract provides for earlier termination by serving two weeks notice.
- > A subsequent contract for a definite period is deemed to be a contract for an indefinite period when the parties have previously had

two contracts in sequence for a definite period provided and the intervals between termination and subsequent contract were not longer than one month. That rule is an example of the implementation of Council Directive 1999/70/EC of 28 June 1999.

The only exceptions are contracts for a definite period that substitute an employee that is absent, or for causal or seasonal work.

#### 5. Part-time work

Part-time employees have the same rights as do full-time employees, and part-time employment cannot mean less favourable conditions of work or pay, however, pay and other benefits are pro rata.

A contract needs to provide when overtime applies. If not, there is a risk that overtime will apply 1 hour after agreed part-time working hours are exceeded.

A part-timer can request a change of working time. An employer should, as far as possible, accept the request. In practice, if the possibility exists, an employer must accept the request.

#### 6. Restrictive covenants, confidentiality

A non-competition covenant can apply during employment. Polish law requires a separate written contract for the covenant.

A non-competition covenant can also apply post employment, provided the employee has had access to important information and the parties conclude a separate contract.

A non-competition contract must specify the period of prohibition (no maximum under law) – actual periods used in the market are 6-12 months (exceptionally, 24 months) - in the absence of specific justification, anything longer could be deemed to be an abuse.

The contract must provide compensation for not competing not lower, however, than 25% of the employee's pay before employment ceased, for the period equal to the period of the competition prohibition - if lower than 25% or if not provided in the contract, the employee can claim the 25%.

It is important to include a unilateral right for employer to terminate/withdraw from a contract. Otherwise, even if the covenant becomes invalid before the end of the non-compensation period because the circumstances justifying such prohibition cease to exist, the employer will have to pay the agreed compensation for the entire period of the non-competition.

Furthermore, during employment, an employee cannot reveal any confidential information to third parties. That covenant applies for 3 years after employment ends, unless agreed otherwise.

### III. Issues which arise during employment

#### 1. Annual leave

Polish law provides for annual leave of 20 or 26 working days, which depends on employment for less than 10 years or for 10 years and more.

A period of employment, on which the right to vacation leave depends, includes periods of former employment and the periods of education in secondary school or at university, provided that full periods of education have been completed (e.g., graduation from a school of higher education means in total 8 years of employment).

During leave an employee is entitled to usual pay.

An employer must give leave in the calendar year that the employee acquires the right to it. Leave that has not been taken in a calendar year must be given before the end of the first quarter of the next calendar year – by 31 March. Leave that is not taken by 31 March accumulates to a next year, for the time that it does not become statute barred (i.e., for 3 years).

Basically, an employer cannot pay in lieu of leave that is untaken. The only exception is termination or expiry of employment; here, the employee is entitled to a cash equivalent for untaken leave, if any.

During a period of notice of termination an employee must take the leave that is due, provided the employer gives the leave.

#### 2. Working time / overtime

In general, working hours cannot exceed an average of eight hours per day, forty hours per week in an average five-day working week, over a reference period of no longer than four months. Additionally, weekly working time, including overtime work, cannot exceed 48 hours per week.

Polish law provides for several exceptions to the above rule, depending on the type of business, or organizational, or technical, conditions at work.

An employee is entitled to at least 11 hours of undisturbed rest each day and to at least 35 hours of undisturbed rest in any week, which hours should include a Sunday.

Whenever the daily working time is at least 6 hours, an employee has the right to a break from work of at least 15 minutes.

Apart from the rest periods, Polish law provides additional limits on overtime. Overtime is permissible only if:

- > there is a need to rescue a person's life, or health, to protect property or the environment, or to repair a breakdown
- > the employer has special needs.

Overtime for special needs of an employer cannot exceed 150 hours per calendar year, unless otherwise agreed in collective labour agreement or workplace regulations, or, if neither of the above apply, in a contract of employment.

For overtime, the following is the extra that is to be paid:

- > 100% of pay for work at night, on Sundays, public holidays, or a rest day given in exchange for work on Sunday, or public holiday, or
- > 50% for work on any other day.

The 100% allowance also applies to each hour that exceeds the average weekly working-time standard in a relevant reference period, unless such standard has been exceeded in overtime for which the employee has the right to the allowance.

Polish law, in general, does not provide the possibility to include pay and an allowance for overtime in the regular monthly pay. The only exception is for employees permanently working outside the employing establishment. In that situation, pay and the allowance for overtime can be replaced by a lump sum the amount of which is to correspond to the anticipated overtime. However, in exchange for overtime an employer, upon an employee's written request, can give a day off, in the same amount. A day off can also be given in exchange for overtime without an employee's request. In that situation, the employer, however, must give time off no later than by the end of the settlement period in an amount which is half as large as the number of overtime hours, although it cannot result in decreasing the pay for a full monthly working time.

If time off is granted, an employee is not entitled to be paid for overtime.

Different rules apply to managerial staff who, if necessary, are to work outside standard working hours without the right to pay for overtime.

#### 3. Maternity leave

The following is maternity leave:

- > 18 weeks for a first birth
- > 20 weeks for each subsequent birth
- > 28 weeks for a multiple birth.

At least 2 weeks of maternity leave is available before a date of birth.

On 6 December 2008, new law was adopted amending



the Labour Code. The amendment foresees an extension, starting from 1 January 2009, of maternity leave to 20 in the case of giving birth to one child and 31, 33, 35 and 37 weeks in the case of giving birth, respectively, to twins, triplets, quadruplets or quintuplets. Starting from 1 January 2010 an employee will also have the right to additional maternity leave from 2 weeks (or 3 weeks in the case of giving birth to more than one child), which will be successively increased to 6 weeks (or 8 weeks) in 2014. Additional maternity leave will be granted upon written motion of employee that is filed at least 7 days before such leave is taken.

During a pregnancy and maternity leave, an employee is protected from dismissal.

An employer cannot either give notice of termination or terminate employment during pregnancy, or during maternity leave, unless there are reasons to do so summarily – for employee's fault, and an establishment's trade union has consented.

A contract of employment for a definite period, for completion of a specific task, or for a probationary period of more than one month, which would have been terminated after the third month of pregnancy, is extended until the day of birth.

An employee on maternity leave is entitled to 100% of basic pay, which is paid by the Social Insurance Institution (ZUS). A maternity allowance is paid by the Social Security Office.

#### 4. Upbringing leave

Any employee that is employed for at least six months is entitled to upbringing leave of up to three years, to provide personal care to a child, however, not longer than until the child's fourth birthday (or not longer than a child's 18th birthday because of adverse health, which is to be confirmed by a certificate of disability, and the child requires the employee's personal care).

Upbringing leave is to be granted only at an employee's request, and can be taken in no more than four parts.

There is, in general, special protection from termination for employees that are on upbringing leave (see comments in point IV.5).

Council Directive 96/34/EC of 3 June 1996 has been implemented.

#### 5. Sick pay

The sick pay that applies to incapacity to work for 33 days in total in calendar year because of:

- > illness or isolation because of a contagious

disease - is 80 % of pay, but internal employer regulations can provide a higher amount

- > an accident while travelling to or from work or disease during pregnancy - is 100 % of pay
- > a necessary medical examination for candidates for donors of cells, tissues, or organs, and to collect cells, tissues, or organs - is 100 % of pay.

For a period of incapacity to work that lasts longer than 33 days per calendar year, an employee receives sickness benefits from the Polish Social Security Office.

#### 6. Pay

Statutory minimum pay in Poland is negotiated periodically by the Tripartite Commission (comprising representatives of employees, employers, and the government).

Statutory minimum pay is fixed each year, which in 2009 is PLN 1,276.00 (approximately EUR 280); note, employer internal regulations can provide a higher amount.

A worker must be paid at least once a month (but not later than within the first ten days of a subsequent calendar month) in cash, unless the worker consents in writing to a bank transfer.

Pay can be in other than cash, if so is provided in a collective labour agreement, or by written prior consent of an employee.

#### 7. Changing the terms and conditions of employment

Polish law allows changing conditions of work and pay (e.g., changing the work place, duties, or pay). An employee must consent in writing. If not, an employer can enforce the envisaged changes by serving notice together with an offer to have work continue under the changed conditions. Here, the employer has to comply with the statutory or contractual periods of notice and other formal requirements that apply to terminate employment.

The termination of the conditions of work or pay is deemed to be effective when changed conditions have been proposed to an employee, in writing.

If an employee rejects the proposed conditions, employment terminates at the end of the period of notice. Should an employee not reject the proposed conditions before the end of the half of the period of notice, they will be considered to have been accepted. The notice of termination of the conditions of work or pay is to include appropriate information on that. If there is no information, an employee can reject the proposed

conditions until the end of the notice.

A notice of termination of present conditions of work or pay is not required when an employee is assigned, in the justifiable interests of the employer, to work other than that specified in the contract of employment for a period not longer than three months in a calendar year, if that does not result in lower pay, and if that corresponds to the qualifications of the employee.

## IV. Termination of employment

Generally, a contract of employment can be terminated:

- > by mutual agreement
- > upon notice
- > without notice, i.e., summarily
- > after a lapse of the period it has been concluded for.

A contract can be terminated by mutual agreement at any time. If so, employment ends on the date agreed. That is the recommended manner of termination because it in practice eliminates the risk of an employee suing.

If the parties cannot agree, employment can be terminated by serving notice, or summarily.

A declaration on termination (with or without notice) must be served on an employee. For the sake of prudence, service will need to be personal, or by courier or post, and always have return confirmation of receipt. Notice is considered to have been served when served on an addressee. The information alone that a letter can be taken at the post office is not service.

Polish law does not provide for severance pay for termination (an employee is, however, entitled to pay for the whole period of a notice, even when released from having to work during the period of notice). The only exception applies to severance pay for termination for reasons not related to the employee, provided the employer employs of at least 20 employees. In this case the amount of the severance pay depends on the length of employment - the maximum is 3 months pay but not more than 15 times statutory minimum pay, which maximum is currently PLN 16,890 or approx EUR 4,500 (see comments in point IV.6)

### 1. Termination by notice – formal requirements

Termination by serving notice is the basic manner of ending employment.

The notice must be in writing, and advise when employment ends, and that the employee can appeal to a labour court within 7 days.

Termination of employment for an indefinite period of time needs to state the reason justifying the termination.

The reason must be factual (descriptive not general) and true. Otherwise, an employee could easily succeed on appeal.

The employer that intends to terminate employment for an indefinite time must notify the establishment's trade union representing the employee, if any, of the intended termination and reasons thereof.

If the trade union decides that such notice is unjustified, it can present the employer with substantiated objections in writing within five days from receiving the information, but the employer can make its own decision on termination.

Failure to comply with formal requirements does not affect the validity of the notice. It means, however, that such termination can be challenged by the employee as being unjustified (when the reason of termination was too general or untrue) or unlawful (e.g., the notice was sent by fax or the employer did not consult the trade union representing the employee).

However, if the period of notice applied is shorter than that required the contract of employment will terminate at the end of the required period, and the employee will be entitled to pay until the termination of the contract. Termination of employment for a definite period of time by notice is possible if an employment contract is for more than six months and the contract provides for earlier termination.

### 2. Termination summarily – formal requirements

Termination of employment summarily is an exceptional manner of termination.

A declaration on immediate termination must be made in writing, advise the employee of the right to appeal to a labour court within 14 days, and specify the reason thereof.

Polish law lists the reasons that justify termination summarily, which are fault of an employee who:

- > seriously breaches basic duties
- > commits an offence which makes further employment impossible, if the offence is obvious or it has been established by final judgment
- > loses the licence that is necessary to work.
- > Such termination cannot be applied after one month from when the employer learns of the circumstances justifying termination.

An employer must prove intentional fault of an employee (at least gross negligence); in any doubt at all, it is advised that termination be by serving notice, instead of summarily.

Polish law also specifies when employment can be



terminated summarily, even though the employee is not at fault:

- > for incapacity because of illness:
- > for longer than three months, if employed for less than six months
- > when longer than the period of receiving sick pay and welfare benefits (basically 182 days) and rehabilitation benefits for the first 3 months, if employed for at least six months, or if the incapacity was caused by an accident at work, or by an occupational disease
- > for justified absence for other reasons for a period longer than one month.

However, employment cannot be terminated summarily after the employee has reported to work because the incapacity has ended.

The employer who intends to terminate employment summarily must notify the establishment's trade union that represents the employee, if any, of the intended termination and reasons thereof. The trade union is entitled to present the employer an opinion on such termination, not later, however, than within 3 days.

### 3. Consequences of unjustified or unlawful dismissal

An employee can appeal to a labour court.

If the court finds for an employee (i.e., that notice was unjustified or unlawful), it can at the request of the employee declare that the notice of termination is ineffective, and if the contract has already been terminated order that the employee be reinstated to work on former conditions. If, however, the labour court determines that that is impossible, or without purpose, it can award compensation, instead.

The amount of compensation depends on the type of employment, the manner of termination, and the length of notice. As the maximum statutory period of notice is 3 months, in practice, the maximum compensation is 3 months' pay, unless a longer period was contracted, or appears in an employer's internal regulations. If the latter, the compensation would be the longer period. That needs to be considered when long periods of notices are being negotiated by parties.

The judgment of the Constitutional Tribunal of 27 November 2007 (Docket No. SK 18/05), however, provides that the compensation does not prevent other claims for compensation under general civil law. Additionally, a reinstated employee is entitled to pay for the period of employment, which depends on the manner of termination and the type of employment, but

which cannot exceed 3 months' pay.

When employment of a protected employee (see point IV.5) has been terminated, when a court reinstates the employee, the pay must be for the entire period of unemployment.

In practice, most claims for unfair dismissal are settled in court. The amount of compensation agreed between parties varies, but usually ranges from 3 to 6 months' pay.

### 4. Period of notice

Statutory periods of notice differ and depend on the type and the length of employment at an employer.

Probationary employment can be terminated by serving notice of:

- > three days – for a probationary period of up to two-weeks
- > one week - for a probationary period longer than two weeks, and
- > two weeks – for a three-month probationary period.

A fixed term contract can be terminated by serving two weeks' notice when for more than six months, and the contract provides for such notice.

The length of notice for a contract for an indefinite period is:

- > two weeks - for less than six months of employment
- > one month – for more than six months of employment, and
- > three months – for more than three years of employment.

The statutory periods can be extended in employment contracts, internal regulations, or collective labour agreements, provided however that the extension benefits the employee. If so, the longer periods of notices must be observed.

The statutory periods can be also shortened. In case of termination of employment for an indefinite period because of bankruptcy, or liquidation of the employer, or for other reasons not related to the employees, the employer can shorten three-months' notice into 1 month's notice. In such case the employee has the right to compensation equal to the remuneration for the outstanding part of the period of notice.

Period of notice given in months ends on the last calendar day of the month and must be for an entire month(s), e.g., if 3-months' notice of termination is served on 1 January, employment terminates on 30 April.

A period of notice given in weeks ends on a Saturday.

### 5. Special protection from dismissal

Some groups of employees, or those to whom certain periods of time apply, are protected from dismissal, e.g.:

- > An employer cannot terminate the employment of those who are to retire within 4 years, if the employment means acquiring a pension when they retire.
- > Employment cannot be terminated during an employee's holidays, or while justifiably absent from work.
- > Basically, an employer can neither give notice, nor terminate, employment during pregnancy, or maternity leave, unless there are reasons for summary dismissal, i.e. for fault, and when a trade union, if any, consents. This does not apply to an employee on trial for less than one month. Employment for a definite period, or for completion of a specific task, or for a probationary period of more than one month, which could have been terminated after the third month of a pregnancy, is extended until the day of birth.
- > There is, in general, special protection given when on parental leave, i.e. an employer cannot give notice, nor terminate, in the period from the date of a request for upbringing leave until the date of completion of such leave. If an employee requests upbringing leave after there has been an attempt to terminate employment, the contract is terminated within the time resulting from that attempt.
- > An employer cannot without consent of a management board of a trade union give notice of termination, or terminate, employment of a board member, or other employee trade union member, when the persons are named in a resolution of the board of trade union. The number of protected employees depends on the number employees that are union members,
- > An employer cannot terminate employment of a person whilst a member of a works council, unless the works council consents thereto.

The above protection applies to termination of the terms and conditions of work and pay.

There are some exceptions that lower the protection, e.g. in collective redundancies, bankruptcies, or liquidation of an employer.

The transfer of an undertaking, transfer of an employing establishment, or a part thereof, to another employer cannot be considered to be a reason justifying termination of employment by serving notice.

## 6. Collective redundancies

Specific rules for terminating employment for reasons not related to employees appear in the Act of 13 March 2003, known as the Group Dismissals Act. The Act implements Council Directive 98/59/EC of 20 July 1998 on collective redundancies.

An employer of more than 20 persons must apply a special group dismissal procedure, if within 30 days the dismissal is to apply to at least:

- > 10 employees, when less than 100 persons are employed
- > 10% of employees, when at least 100 but less than 300 persons are employed
- > 30 employees, when at least 300 persons are employed.

The procedure is relatively complex and an employer has several obligations, e.g., to notify and consult the group dismissal with, depending on the facts, trade unions or representatives of employees, and a works council; to conclude an agreement or set up regulations on the procedure for a group dismissal; and to notify the regional labour office.

Failure to comply with the procedure and deadline means unlawful termination and justifies employees suing.

An employee whose employment contract is terminated within a group dismissal is entitled to severance pay of:

- > one month's pay, if employed for less than 2 years
- > two months' pay, if employed at least for 2 years, but less than 8 years
- > three months' pay, if employed for more than 8 years.

The amount of severance pay cannot exceed 15 times the statutory minimum pay for work, which in 2009 is PLN 19,140 or approx EUR 4,185.

The severance pay also applies when less than the numbers specified above are dismissed, and an employer of at least 20 persons terminates employment for reasons not related to the employee, if those reasons are the only reason justifying termination of an employment relationship by notice or on the basis of mutual consent. Specific severance pay can be due, if the employment contracts, or employer internal regulations, so provide.

## V. Industrial relations

### 1. Employee representative bodies

#### *a. Works councils*

The Informing and Consulting Employees Act of 7 April 2006 came into force on 25 May 2006 and defines the conditions for informing and consulting employees, and lists the rules for electing a works council.

Basically, the obligation to create a works council applies to employers of at least 50 persons. There is a complex procedure, and deadline, to do so. Methods of establishing a council differ when there are trade unions, and when there are not.

Councils represent employees in a workplace and are independent of trade unions.

The following matters need to be provided as information or require consulting a works council:

- > recent and probable developments of an employer's activities and its commercial situation
- > the situation, structure, and probable development of employment, and any planned measures to do with maintaining current staff levels
- > measures likely to lead to substantial changes in work organisation or in contractual relations.

The law does not indicate a deadline to consult. It only generally provides that consultation is to be at a place, at such time, in such manner, and to have such content as is appropriate to enable the employer to take action on the subject matter of the consultation and in such a manner as to enable the works council to meet the employer and obtain a reply, and the reasons for that reply, on any opinion it might formulate, for the purpose of the works council and the employer agreeing. In practice, a 30-day deadline is applied.

Failure to inform, or consult, a works council does not affect and cannot delay an employer's business decision. However, failure to comply with the requirements can be an offence, which has a penalty of restriction of freedom, or a fine of up to PLN 5,000 (approx. EUR 1,450)²

Members of works councils enjoy special protection from dismissal.

#### *b. Trade unions*

Every employee is entitled to join a trade union; 10 employees are needed to form a union.

The rights of unions and the employer's obligations thereto are regulated, primarily, by the Polish Trade Unions Act of 23 May 1991.

The structure of unions in Poland is very complex

(enterprise, at inter-enterprise level, regional and country level – federation and confederation).

The most complex union structure and the highest number of union organisations appear in state and post-state enterprises.

In collective matters, unions represent the interests of all company employees irrespective of union membership.

Collective matters that require information, consultation, or the agreement of a union include:

- > establishing and amending work regulations
- > establishing and amending regulations on pay
- > establishing social benefits fund regulations
- > acceptance of leave schedules for employees
- > concluding collective labour agreements - source of labour law
- > conducting collective labour disputes
- > transferring an employment establishment
- > group dismissals.

On separate employment matters, a union represents its members and employees not associated with the union, if the union that is chosen by the employee agrees to defend the employee's rights.

### 2. Collective Bargaining

Polish law allows collective bargaining agreements between an employer and trade unions, at enterprise or multi-enterprise level; they must be registered to be valid.

They apply to all employees of employers that are parties to it, unless the parties decide otherwise.

They are binding and enforceable and can regulate:

- > the terms of employment (such as rules of employment, pay, and employees benefits)
- > mutual obligations of the parties, and
- > other issues that are not, and which can be regulated by law.

An enterprise agreement cannot be less advantageous to employees than a multi-establishment agreement.

The law provides that the provisions of a collective agreement that are more beneficial than the provisions of a contract of employment replace the provisions in the contract. Note, however, that less beneficial provisions in a collective agreement will first require service of a notice of termination of the existing terms of a contract of employment.

Collective agreements can be concluded for an indefinite or definite period, and can be terminated:

- > by joint declaration of the parties
- > upon the expiration of the period for which they have been concluded

- > by one party serving notice (of the 3 calendar months, unless the parties agreed otherwise).

An employer in a poor financial condition can agree to suspend the applicability of a collective agreement, but for no longer than three years.

If an employing establishment, or part thereof, is acquired, the ensuing employer will be bound by a collective agreement for one year. However, the terms of employment contracts apply until the end of the period of notice of termination of the terms. Apart those described above, Polish law provides other types of collective agreements that relate to specific matters, e.g., arrangements on redundancies.

Social packages are a separate type of collective agreement. They usually appear during privatizations of state enterprises, and are usually concluded between a trade union and an investor, or management. The objective of them is to secure employee interests, and provide additional benefits, such as employment guarantees, pay increases, maintenance of social premises and leave resorts, etc.

Social packages are not regulated by law and the legal nature and enforceability of them is uncertain; the Supreme Court has not resolved the problem.

## VI. Social security

Every employee is, in principle, insured by law in the statutory insurance system.

Social security contributions for employees have of four obligatory parts:

- > pension (19.52%) - payable in equal parts by employees and employers
- > disability (6%) - 1.5% payable by an employee and 4.5% by the employer
- > sickness (2.45%) – paid by the employee, and
- > accident (until 31 March 2009 the rate is 0.67% - 3.60%) insurance – paid by the employer; the rate depends on the type of business.

Pension and disability insurance are payable up to a limit of 30 times the national average pay in a given year (for 2009 it is PLN 95,790 - approximately EUR 20,940).

An employer must pay Working Fund contributions (2.45%), and Guaranteed Employee Claims Fund contributions (0.10%).

An employee additionally pays 9% of the health insurance, where 7.75% is paid from taxes and 1.25% by an employee.

It is the employer who deducts the social security contributions from employee pay and transfer the amounts to the relevant Social Security Office ("ZUS").

## Conclusion

In summary, Polish law overlaps European law, but Polish law has its own peculiarities, and an employer, especially, a foreigner, is advised to always seek legal advice on matters to do with employment.

Warsaw, 6 December 2008

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## Useful Information Sources

Enterprise Ireland  
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[www.enterprise-ireland.com/poland](http://www.enterprise-ireland.com/poland)

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Irish Chamber of Commerce  
[www.icc.org.pl](http://www.icc.org.pl)

### Headcount Solutions Polska Sp. z o.o.



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