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Fair Working Conditions of Traineeships in the Polish Labour Law System: The Case of Work Performed Remotely

Abstract

The development of new technologies and the increasing popularity of remote work create new challenges with regard to ensuring fair working conditions for all workers. However, the Polish labour law system significantly differentiates between employees who perform remote work and those who perform remote work as trainees. This leads to different treatment with regard, for example, to wages and working conditions. This article firstly describes the legislative context of remote work in the Polish labour law system. Secondly, it discusses the legal situation of different types of trainees in the context of remote work. Finally, it will formulate *de lege ferenda* postulates for creating fairer working conditions for trainees performing remote work.

Keywords: Poland, labour law, trainees, fair working conditions, remote work

1. Introduction

Acquiring job-related skills has become increasingly important on modern labour market. It is especially for newcomer workers, graduates, who make first steps in their working career. According to Eurostat estimates, between 2013 and 2023, the percentage of people who have participated in a traineeship at least once has increased.¹ The wide-

¹ Cf. European Commission, Directorate General for Employment, Social Affairs and Inclusion: *Flash Eurobarometer 523. Integration of Young People into the Labour Market with Particular Focus on Traineeships: Report*. Publications Office Luxembourg 2023,

spread popularity of traineeships can also be observed in Central and Eastern Europe, where this percentage fluctuates from 54% (Czech Republic) to 74% (Bulgaria). In Poland around two-thirds (67%) of young people declare that they undertook at least one traineeship.²

Traineeship in European legislation is usually defined as “a limited period of work practice, whether paid or not, which includes a learning and training component, undertaken in order to gain practical and professional experience with a view to improving employability and facilitating transition to regular employment.”³ There are essentially four types of traineeships: traineeships within educational curricula; traineeships as a mandatory part of professional training; traineeships as part of active labour market policies (ALMPs), and Open-market traineeships.⁴

However, the prevalence of traineeships has revealed a systemic gap in labour and social protection of trainees. In Europe, traineeships outside the formal education are often unpaid or underpaid or used to replace entry-level positions.⁵ Such situation arguably violates both the right of trainees to fair working conditions and non-discrimination rules expressed in the Charter of Fundamental Rights of the European Union⁶ and the European Pillar of Social Rights.⁷ However, this article

p. 10; TNS Political & Social: *Flash Eurobarometer 378. The Experience of Traineeships in the EU. Report*. Publications Office, Luxembourg 2013, p. 7.

² Ibidem.

³ Council Recommendation of 10 March 2014 on a Quality Framework for Traineeships, OJ C 88, 27.3.2014, p. 1 (hereinafter: QFT).

⁴ European Commission, Directorate General for Employment, Social Affairs and Inclusion: *Study Exploring the Context, Challenges and Possible Solutions in Relation to the Quality of Traineeships in the EU*. Publications Office, Luxembourg 2024, p. 1.

⁵ European Parliament: Resolution of 17 February 2022 on Empowering European Youth: Post-Pandemic Employment and Social Recovery (2021/2952(RSP)), OJ C 342, 6.9.2022; D. Moxon, C. Bacalso, S. Dolidze: *European Youth Forum Discussion Paper: The Costs of Unpaid Internships*, Brussels 2023, pp. 4–9.

⁶ Charter of Fundamental Rights of the European Union (2012/C 326/02), OJ C 326, 26.10.2012, pp. 391–407, for instance, Articles 31 (working conditions which respect health, safety and dignity of workers) and 32 (protection of working conditions of young workers and against economic exploitation).

⁷ European Commission: *Establishing a European Pillar of Social Rights* (Communication). COM(2017) 250 final, Brussels, 26.4.2017, for example: principle no. 1 (right to quality and inclusive education and lifelong learning); no. 3 (right to equal treatment and opportunities); no. 4 (timely and tailored assistance for employment or self-employment, including support for job search, training, and re-qualification); no. 5 (the right to fair and

will only address the legal situation of trainees in Poland. Discussions currently taking place in other EU Member States⁸ and at the level of European legislation drafting,⁹ although crucial for this topical issue, will be left outside the scope of this article.

The modern approach to work-based learning (WBL)¹⁰ assumes that such experiences, gained by apprenticeship, traineeships or other programmes, add value to formal education by emphasising the connection between theory and practice. The value of practical training does not change if it takes place online and utilises digital technology,¹¹ as the essence of WBL is the process of undertaking a productive work in a real (including digital) working environment.

Furthermore, socio-economic and legal tensions are further intensified by the digitalisation of the economy, which require new set

equal treatment in working conditions, social protection, and training, regardless of employment type) or no. 6 (the right to fair wages that provide a decent standard of living and the right to adequate minimum wages to satisfy a worker's needs).

⁸ Just to mention other countries of Visegrad group: J. Horecký, M. Blažek: *Dependent Work and Internship*. "Central European Journal of Labour Law and Personnel Management" 2019, vol. 2 no. 2, pp. 7–20; B. Solymosi-Szekeres: *The Fragmented Regulation of the Traineeship in Hungary*. "Stanovništvo" 2023, vol. 61, no. 2, pp. 51–67; M. Švec: §1. *Pôsobnosť Zákonníka práce*. In: *Zákonník práce – komentár*. Eds. M. Švec, J. Toman. Wolters Kluwer SR, Bratislava 2023, para. 130.

⁹ Cf. European Commission: *Proposal for a Directive of the European Parliament and of the Council on Improving and Enforcing Working Conditions of Trainees and Combating Regular Employment Relationships Disguised as Traineeships ('Traineeships Directive')*. COM(2024) 132 final, Brussels 2024; European Commission, Directorate General for Employment, Social Affairs and Inclusion: *Study Exploring the Context, Challenges and Possible Solutions in Relation to the Quality of Traineeships in the EU...*; European Court of Auditors: *EU Actions Addressing Traineeships for Young People*. Publications Office, Luxembourg 2024, pp. 17–19; J. Helme: *The Problems and Paradoxes with the EU's Regulation of Traineeships: A Way Forward*. "Industrial Law Journal" 2024, vol. 53, no. 4; A. Rosin: *Fundamental Rights Broadening the Scope of Labour Law? The Example of Trainees*. In: *Internships, Employability and the Search for Decent Work Experience*. Eds. A. Stewart et al. Edward Elgar Publishing, Cheltenham 2021, pp. 285–301.

¹⁰ P. Comyn, L. Brewer: *Does Work-Based Learning Facilitate Transitions to Decent Work?* ILO Employment Policy Department, Employment Working Paper No. 242, Geneva 2018, pp. 3–6.

¹¹ Cf. A. M. Hruska et al.: *Going Remote: Recommendations for Normalizing Virtual Internships*. "Ecosphere" 2022, vol. 13 no. 3, p. 13; D. Jeske, C. Linehan: *Mentoring and Skill Development in e-Internships*. "Journal of Work-Applied Management" 2020, vol. 12, no. 2, pp. 252–253; G. Paviotti, C. Aleffi, A. Ferrara: *Toward Remote Work: Online Internship in Time of Pandemics*. "Excellence and Innovation in Learning and Teaching" 2023, no. 1, pp. 79–80.

of digital skills.¹² It is visible in a significant change introduced into the Polish Labour Code¹³ in 2023, which replaced telework with remote work, as a form of rendering one's employment duties organised in the way that is more adaptable to new reality. The rising trend of work performed remotely not only brings greater flexibility to engaging in one's occupation, but also raises questions about the structural characteristics of the employment relationship and how it differs from other forms of work.¹⁴

In the context of digital economy, a growing number of young workers have been participating in traineeships where the acquisition of job-related skills takes place in an environment that is entirely digital. However, despite having little or no work experience, a trainee may be assigned tasks identical to those performed by an employee, especially in remote workspace. This creates a protection gap between employees and trainees, since the latter's formal status differs significantly from that of an employee. This consequently limits trainees' access to labour and social security protection. Therefore, the foregoing requires the research focus to be placed on specific characteristics of tasks performed remotely which currently justify a status other than that of an employee.

¹² For instance, see: Council of the European Union: *Council Recommendation of 30 October 2020 on A Bridge to Jobs – Reinforcing the Youth Guarantee*. OJ C 372, 4.11.2020, paras. 4–5, 18–21, 24–25; Council of the European Union: *Council Conclusions on Smart Youth Work (2017/C 418/02)*. OJ C 418, 7.12.2017; European Commission: *European Skills Agenda for Sustainable Competitiveness, Social Fairness and Resilience*. COM(2020) 274 final, Brussels 2020, pp. 10–16; European Commission: *Digital Education Action Plan 2021–2027: Resetting Education and Training for the Digital Age*. COM(2020) 624 final, Brussels 2020, pp. 13–14.

¹³ Act of 26 June 1974 Labour Code (consol. Journal of Laws of 2025, item 277, as amended) (hereinafter: LC).

¹⁴ M. Barański: *Praca zdalna a umowy cywilnoprawne*. In: *Praca zdalna w polskim systemie prawa pracy*. Ed. M. Mędrala. Wolters Kluwer, Warszawa 2021, pp. 231–239; L. Florek: *Prawne ramy pracy zdalnej*. "Z Problematyki Prawa Pracy i Polityki Socjalnej" 2021, vol. 19, no. 2, pp. 1–14; L. Mitrus: *Praca zdalna de lege lata i de lege ferenda — zmiana miejsca wykonywania pracy czy nowa koncepcja stosunku pracy?* Część 2. "Praca i Zabezpieczenie Społeczne" 2020, vol. LXI, no. 11, pp. 3–10; L. Mitrus: *Pojęcie i rodzaje pracy zdalnej w świetle nowelizacji kodeksu pracy z dnia 1 grudnia 2022 r.* "Praca i Zabezpieczenie Społeczne" 2023, vol. LXIV, no. 11, pp. 40–48.

The scope of the present article covers only legal situation of trainees within: (1) the Active Labour Market Programmes,¹⁵ regulated by Act of 20 March 2025 on the labour market and employment services,¹⁶ (2) the Open Market Traineeships,¹⁷ regulated by Act of 17 July 2009 on graduate traineeships,¹⁸ and (3) student traineeship schemes regulated by Act of December 14, 2016 – Education Law.¹⁹ They are among the most commonly used legal instruments and agreements on the labour market; their legal nature is analogous to employment relationship and, what is more, they are covered by the scope of the QFT. In the meantime, there is a view in legal doctrine that, based on the principle of freedom of contract, we may be dealing with a traineeship without work performance.²⁰ The Vocational Education and Training (VET) will not be included within the scope of research herein. This is because, under Polish labour legislation, apprentices are considered employees. Moreover, as they are mostly underage, the law stipulates additional protective measures for adolescent employees.

¹⁵ They “involve an agreement between three stakeholders – employer, trainee, and public employment services (‘PES’) – without necessarily requiring a work contract and remuneration, although the trainee could receive some form of allowance or benefits, whereas the employer may receive some form of subsidy. These traineeships target unemployed/inactive young individuals and aim to smooth their transition to work,” cf. European Commission, Directorate General for Employment, Social Affairs and Inclusion: *Study Exploring the Context, Challenges and Possible Solutions in Relation to the Quality of Traineeships in the EU...*, p. 1.

¹⁶ Journal of Laws 2025, item 620, as amended (hereinafter: Act on labour market).

¹⁷ They “take place under an agreement between the employer and the trainee. They aim to provide trainees with a first work experience through learning and training on-the-job,” cf. European Commission, Directorate General for Employment, Social Affairs and Inclusion: *Study Exploring the Context, Challenges and Possible Solutions in Relation to the Quality of Traineeships in the EU...*, p. 1.

¹⁸ Consol. Journal of Laws of 2018, item 1244, as amended.

¹⁹ Consol. Journal of Laws of 2025, item 1043, as amended.

²⁰ However, it is also difficult to imagine an internship or work placement that does not include a component of work and learning through work. When learning is based primarily on observing the work and occasionally replicating work tasks, we should speak of training rather than practice per se, cf. A. Sobczyk: *Niepracownicze zatrudnienie podporządkowane*. In: *Prawo pracy w świetle procesów integracji europejskiej. Księga jubileuszowa Profesor Marii Matej-Tyrowicz*. Eds. J. Wrątny, M. Rycak. Wolters Kluwer, Warszawa 2011, pp. 226–227.

2. Legal status of trainees in Polish legal system

In order to determine the legal nature of open market traineeships, it is necessary to first distinguish them from traditional employment relationships. Employment relationship is characterised as an obligation of the employee to perform specific work for the employer under the employer's direction, at a place and time specified by the employer, and the employer's obligation to employ the employee against remuneration (Article 22 §1 LC). To avoid overuse of civil law agreements, the law imposes limitation that any relationship which meets the criteria of employment relationship is deemed employment regardless of the name of the contract (Article 22 §1¹ and §1² LC). For the purpose of vocational training of adolescents, the Polish Labour Code regulates exclusively acquiring skills for the work on the basis of an employment contract (Article 194 LC).²¹

The current Act on the labour market maintains the system of traineeships for the unemployed organised by the *starosta* (district administrator).²² Under Article 114, the *starosta* assigns an unemployed person²³ to a traineeship organiser based on traineeship agreement²⁴ for acquiring knowledge and skills required for future work. Crucially, although the trainee "performs tasks"²⁵ within the workplace, this activity does not establish an employment relationship with the organiser.²⁶

The novelty of the reform is the introduction of a tripartite agreement. In contrast to previous legislation, where the unemployed person was merely assigned to an organiser, the trainee now plays an

²¹ Within the meaning of the Labour Code, an adolescent is a person who is more than 15 years of age and less than 18 years of age.

²² It is one of the instruments of the active labour market programme, which is subsidised by the Labour Fund.

²³ Article 2 (1) of the Act on labour market.

²⁴ Article 114 (2) of the Act on labour market.

²⁵ The lawmakers avoid (in the context of any traineeship) the notion of "work performance," as it is regarded as being confined solely to employment and other paid activities (however, this does not prevent references to: type of work, working hours, etc. done by the lawmakers). In fact, trainees learn and gain the required skills and knowledge by performing work for the traineeship organiser, so practical-based occupational learning cannot be separated from this. Cf. Z. Góral: *Prawo do pierwszej pracy (z prawnych zagadnień promowania zatrudnienia i przeciwdziałania bezrobociu ludzi młodych)*. In: *Prawo pracy RP w obliczu przemian*. Eds. M. Matey-Tyrowicz, T. Zieliński. C.H.Beck, Warszawa 2006, p. 116.

²⁶ Considered by Article 2 point 44 as "employer."

active role in concluding the agreement alongside the *starosta* and the organiser.²⁷

The project promoters proposed incorporating the obligations of both the traineeship organiser and the unemployed trainee directly into the Act by referencing the Labour Code and taking into account the obligations previously included in the provisions of the Regulation.²⁸ By enshrining these provisions in Act, the legislature sought to strengthen the trainee's legal status, bringing it closer to that of an employee.²⁹ This transition is indeed reflected in the regulation of the rights and obligations of trainees (Article 117) and organisers (Article 116), which largely mirror those outlined in the LC.³⁰ Notably, the Act stipulates that organisers must treat trainees "in accordance with the rules applicable to employees." Although there is no direct legal delegation to the LC, this wording implies that employer-like obligations fully apply to the organiser–trainee relationship. This alignment also applies to working hours and leave entitlements (Article 118). Nonetheless, trainees receive a scholarship, calculated at 160% of the unemployment benefit, rather than an ordinary wage, which differentiates them from employees.

A convergence of both regulations can be observed in allowing unemployed persons to perform their traineeship tasks remotely.

²⁷ A. Dral: *Staż dla bezrobotnych i praktyka absolwentka jako instytucje promocji zatrudnienia absolwentów*. "Praca i Zabezpieczenie Społeczne" 2010, vol. LI, no. 12, p. 26.

²⁸ Regulation of the Minister of Labour and Social Policy of 20 August 2009 on detailed conditions for internships for the unemployed persons (Journal of Laws No. 142, item 1160). That Regulation has been replaced by Regulation of the Minister of Family, Labour and Social Policy of 30 October 2025 on the detailed manner and procedure for organising internships for the unemployed (Journal of Laws, item 1536).

²⁹ Explanatory memorandum to the government's draft act on the labour market and employment services (Sejm document no. 948, 10th term of the Sejm of the Republic of Poland), Warszawa 2025, <https://www.sejm.gov.pl/Sejm10.nsf/druk.xsp?nr=948> (accessed: 30.04.2026).

³⁰ With the exception that there is no reference to caring for the best interests of the establishment and comply with the social norms in the establishment. One may wonder to what extent a trainee should not "care" about the welfare of the community in the workplace when performing work cooperatively with other employees, trainees or co-workers. In my opinion, the limitation of a traineeship for the unemployed to just a few months should not reduce their responsibilities towards the workplace as a community. Such a conclusion might raise doubts as to whether the same responsibilities (complying with social norms?) should apply to employees on fixed-term contracts or to the ones who perform their work remotely.

The *starosta* has the discretion to decide on the duration of remote working, based on an analysis of the specific tasks involved in a given occupation. However, the lawmakers have decided to apply regulatory framework provided by the Labour Code selectively, not extending it fully to trainees (as indicated in Article 114(4)).³¹

By Act on postgraduate traineeships, the lawmakers introduced new type of open market traineeship agreement.³² The graduate traineeship agreement is not an employment contract, and the legislator expressly excluded possibility for application of whole labour law with some exception for a few provisions of the Labour Code.³³ Classifying this type of traineeship under the appropriate legal regime – whether civil or labour – raises issues. The prevailing view in doctrine is that this is a civil law contract and that the provisions of the Civil Code should apply to it.³⁴ However, some authors rightly point out, in my opinion, that the subject of graduate traineeship is work, provided that it is not dangerous work as defined by the Labour Code.³⁵

The second type of open market traineeship is the student traineeship. This was introduced as part of the 2018 amendment to the

³¹ The referenced LC provisions concern regulation of remote work agreement; obligations of employer; remote work financial equivalent; communication rules during remote work; occupational health and safety (hereinafter: OHS) standards during remote work.

³² The main goal of the regulation aims to help graduates gain experience and acquire the practical skills necessary to perform their work (Article 1(2) of the Act). According to the project's proposers, the stricter prohibition on replacing employment contracts with civil law contracts has created a significant risk of employers using informal or innominate agreements. This makes it almost impossible to hire young people for temporary traineeship without establishing an employment relationship, cf. Justification for the parliamentary bill on graduate traineeship, <https://orka.sejm.gov.pl/proc6.nsf/opisy/1701.htm> (accessed: 30.04.2026).

³³ Particularly those relating to non-discrimination (Articles 18^{3a}–18^{3e}) and working time protections, including breaks and night work. Furthermore, Article 5(3) prohibits trainees from performing hazardous work under Article 237¹⁵ of the LC. Under Article 6, the organiser must ensure that OHS standards are equivalent to those for employees.

³⁴ For instance, cf. A. Dral: *Staż dla bezrobotnych i praktyka absolwencka jako instytucje promocji zatrudnienia absolwentów...*, p. 28; M. A. Nycz: *Umowa o praktyki absolwenckie i umowa o staż uczniowski – charakter prawny*. "Studia Prawnicze" 2021, vol. 222, no. 2, pp. 81–82; K. Rączka: *O praktykach zawodowych*. "Praca i Zabezpieczenie Społeczne" 2011, no. 11, p. II.

³⁵ Cf. A. Sobczyk: *Niepracownicze zatrudnienie podporządkowane...*, pp. 425–426.; M. Barański: *Reżim prawny umowy o praktykę absolwencką...*, pp. 531–536.

Education Act.³⁶ Student traineeship agreement at its core regulates the relationship between a traineeship organiser and a student or the parents of an underage student, similarly to graduate traineeship, thus there is no need to evaluate further that type of traineeship.³⁷

Overall, trainees who concluded an unemployed traineeship agreement or a graduate/student traineeship agreement, despite these agreements sharing many characteristics with employment relationship, cannot be considered in Polish legal system as employees, in accordance with the intentions of the lawmakers. The aim of both regulations is virtually similar, which is orienting trainees to acquire experience and skills that can be in their future work later on. Hence, it is argued that the criterion of work remuneration is of secondary importance.³⁸ Also, economic situation of both the types of trainees shows similarities, as they endeavour to find a job that will secure their lives and, moreover, allow them to achieve additional skills necessary on competitive labour market.³⁹

3. Performance of remote work by trainees

The legal basis for remote work performance is regulated by the Article 67¹⁸ LC, which states that “work may be performed in whole or in part in a place indicated by the employee and agreed upon with

³⁶ Act of 22 November 2018 amending the Act – Education Law, the Act on the Education System and certain other acts (Journal of Laws, item 2245, as amended); as the project proposers point out, the introduction of the student traineeship was prompted by the fact that vocational schools were unable to provide training in real working conditions or the opportunity to earn an income due to the exclusivity of free vocational education. This scheme has also enjoyed great success abroad, cf. Justification for the Act amending the Education Law Act and the Education System Act and other acts, Sejm Document No. 2861.

³⁷ For more details see: M. A. Nycz: *Umowa o praktyki absolwenckie i umowa o staż uczniowski – charakter prawny...*, pp. 70–103.

³⁸ A. Sobczyk: *Niepracownicze zatrudnienie podporządkowane...*, p. 435; E. Staszewska-Kozłowska: *Prawo do wypoczynku uczestników staży dla bezrobotnych i praktyk absolwentskich*. “Roczniki Administracji i Prawa” 2024, vol. 4, no. XXIV, pp. 360–361.

³⁹ Compare, for instance, with M. Barański: *Reżim prawny umowy o praktykę absolwencką...*, pp. 527–542; M. Skąpski: *Zatrudnienie niepracownicze na podstawie umowy o praktykę oraz staż absolwencki*. In: *System prawa pracy. Zatrudnienie niepracownicze*. Ed. K. W. Baran. Wolters Kluwer, Warszawa 2015, pp. 224–227, 235–243; A. Sobczyk: *Niepracownicze zatrudnienie podporządkowane...*, pp. 424–435.

the employer each time, including at the employee's place of residence, in particular using means of direct remote communication." Additionally, the LC regulates in Articles 67¹⁸–67³⁴ the rights and obligations of employee and employer regarding the covering of the costs of remote work, the monitoring of remote work, the non-discriminatory rules, the OHS etc.⁴⁰

Remote work is not distinct from "traditional" employment; rather, it is a modified organisation of subordinate work.⁴¹ At the same time, the very nature of remote work may diminish some of the characteristics that constitute an employment relationship. This particularly applies to performing a specified type of work under the direction of an employer, and to the personal nature of the work. Consequently, the employer has limited control over the conditions under which the employee performs their work.⁴²

Nonetheless, the principle of contractual freedom allows parties to enter into civil-law agreements or business-to-business contracts, the objective of which is to provide services remotely.⁴³

As has been demonstrated by other authors using the example of home work or other forms of work (particularly those performed under civil law agreements),⁴⁴ the current structure of the employment relationship, when juxtaposed with remote work, is significantly weakened in many cases, making it difficult to prove that parties

⁴⁰ Cf. K. Jaśkowski: *Komentarz do art. 67(18)*. In: *Komentarz aktualizowany do Kodeksu pracy*. Eds. E. Maniewska, K. Jaśkowski. LEX 2025; M. Mędrala: *Praca zdalna. Komentarz do nowelizacji Kodeksu pracy*. Wolters Kluwer, Warszawa 2023.

⁴¹ L. Mitrus: *Pojęcie i rodzaje pracy zdalnej w świetle nowelizacji kodeksu pracy z dnia 1 grudnia 2022 r.*, p. 46.

⁴² L. Florek: *Prawne ramy pracy zdalnej*..., pp. 5–10; L. Mitrus: *Praca zdalna de lege lata i de lege ferenda — zmiana miejsca wykonywania pracy czy nowa koncepcja stosunku pracy?* Część 2..., pp. 3–10; L. Mitrus: *Pojęcie i rodzaje pracy zdalnej w świetle nowelizacji kodeksu pracy z dnia 1 grudnia 2022 r.*..., pp. 45–46.

⁴³ This view was presented in relation to telework, which has been replaced by remote work, but nevertheless, this view remains valid, cf. M. Barański: *Praca zdalna a umowy cywilnoprawne*..., pp. 231–232; A. Sobczyk: *Komentarz do art. 67(5)*. In: *Kodeks pracy. Komentarz*. Ed. A. Sobczyk. C.H.Beck, Warszawa 2020 (accessed online).

⁴⁴ M. Barański: *Praca zdalna w czasach COVID-19*. In: *Moda i design w świecie COVID-19*, vol. VII. Eds. M. Jankowska, M. Pawełczyk. Instytut Prawa Gospodarczego Sp. z o.o., Katowice 2020, p. 467; M. Barański: *Praca zdalna a umowy cywilnoprawne*..., pp. 234–235.

are genuinely in an employment relationship.⁴⁵ This will also apply to graduate traineeships and traineeships for the unemployed. Despite being classified by doctrine as civil law relationships, the vast majority of them have more in common with an employment relationship than with classic contractual relationships.

A trainee, usually being a young person and/or one with little professional experience, who performs a specific type of work on the basis of the abovementioned traineeship agreements, is in fact comparable to an adolescent employee who works on the basis of employment contract for the purpose of vocational training. All the characteristics of an employment relationship apply to the work of a young person undergoing vocational training. They perform the work personally under the direction of their employer, who is also obliged to provide practical training in the profession. This subordination is further reinforced by the fact that the young person cannot determine their own tasks and is subject to strict control. Consequently, the young person is also subordinate with regard to the time and place at which they perform their work. Their subordination, however, does not have the same nature and extent as it has in the case of the employee–employer relationship, but it in fact might be more profound, that is, resemble this of the master and the pupil.⁴⁶ An adolescent employee receives remuneration for their work, although the minimum amount thereof is significantly lower than the minimum wage.⁴⁷

As previously noted, only certain provisions of the Labour Code regulating remote work apply to remotely performed tasks within traineeships for the unemployed. It mostly concerns regulation of remote work agreements; obligations of employers; financial equivalent of remote work; communication rules during remote work; and OHS standards during remote work. As regulation of labour law is not

⁴⁵ L. Florek: *Prawne ramy pracy zdalnej...*, p. 11.

⁴⁶ A. Musiała: *Prawna problematyka świadczenia pracy w ramach przygotowania zawodowego w polskim Kodeksie pracy*. “*Studia z Zakresu Prawa Pracy i Polityki Społecznej*” 2015, vol. 22, pp. 311–312.

⁴⁷ The minimum wage for adolescent employee is governed by Regulation of the Council of Ministers of 28 May 1996 on vocational training and remuneration of young people (consol. Journal of Laws of 2018, item 2010, as amended); M. Włodarczyk: *Komentarz do § 19, § 20. Komentarz do rozporządzenia w sprawie przygotowania zawodowego młodocianych i ich wynagradzania*. Ed. K. W. Baran. Warszawa 2024.

applicable to postgraduate traineeship, thus remote performance of work can be only negotiated by the parties based on the principle of contractual freedom.⁴⁸

The separation of trainee status from employee status has created the space for differentiation in the protection of employee rights based on the legal form of professional traineeship. This is also noticeable in the case of remote work. One can imagine a situation where three people, each at the beginning of their professional career and wanting to acquire the skills needed to perform a specific job, will perform work/tasks remotely or in a hybrid manner for same entity (employer, traineeship organiser) for a period of three months. What will differentiate them is their legal status:

The first person is employed under a probationary contract (maximum term of three months). They will be treated as an employee, and will therefore be paid at least the minimum wage. What is more, the labour law provisions will directly apply to them (unless the contract is more favourable to the employee), which entails guarantees regarding working time, breaks, and compensation for equipment and materials used to perform remote work. The employee is also covered by full social security and health insurance contributions; minimising future risks related to their social situation.

The second person is placed with (lit. 'seconded to') the traineeship organiser on the basis of an unemployment traineeship agreement for "acquiring knowledge and skills by performing tasks in the workplace." In their case, the LC rights also apply, but to a limited extent, particularly with regard to the provisions on remote work. Other protective measures, although based directly on the rights and obligations applicable to employees, are regulated only by the Act on labour market. Another significant factor is the tripartite nature of the current traineeship agreement, which brings the trainee's legal status closer to that of an employee by mirroring the structure of an employment contract involving a user employer. This convergence is further evidenced by the fact that the internship organiser is legally required not only to refrain from discrimination, but also to protect the trainee from mobbing (workplace bullying and harassment). A scholarship, which replaces unemployment benefit during the traineeship, allows

⁴⁸ A. Sobczyk: *Niepracownicze zatrudnienie podporządkowane...*, p. 426.

the trainee to perform the tasks with lesser economic pressure⁴⁹; nonetheless the amount of the scholarships is by design intentionally tied not to the minimal wage but unemployment benefits, which raises concerns about the adequate level of the support that is provided to the unemployed trainees. The scholarship is subject to full social security coverage, paid from the Labour Fund. Consequently, the gross amount of the scholarship is equal to the net amount for the trainee. Importantly, this means that the period during which the scholarship is received counts towards the individual's social insurance record, thereby contributing to their future pension entitlements. Health insurance is also covered and paid by the Public Employment Service, since the trainee retains their status as an unemployed person.

Rights of the third person, who is employed based on graduate/student traineeship agreement, in our factual situation will be subject to least protection compared to the foregoing two persons. This legal relationship is characterised by the dubious nature; thus, it is not straightforward to determine which legal regime should be applicable.⁵⁰ Nonetheless, trainees' rights pertaining to OHS, resting periods⁵¹ (however without right to leaves⁵²) and non-discriminatory provisions provided for in LC will be applicable (except to provisions related to prevention of mobbing in the workplace).⁵³ Work of the trainee may be performed both for remuneration and without remuneration, which

⁴⁹ Also, it is necessary to take into account other benefits that the trainee may receive during traineeship, such as reimbursement of childcare and dependent care costs (Article 146 (1) and (5)) and scholarship supplement during the traineeship period (Article 121 (1) and (2)).

⁵⁰ Cf. M. Barański: *Reżim prawny umowy o praktykę absolwencką...*, pp. 540–542.

⁵¹ However, the legislator did not restrict performing night work under the traineeship's agreement (despite the protective measures applicable to pregnant employees and adolescents under the same agreement). It seems to have been an error made on the lawmakers' part rather than a deliberate decision. However, since it has not been amended subsequent to its entry into force, the possible interpretation is that the lawmakers did accept performing night work by the trainees. A. Drabek: *Praktyka absolwencka – środek przeciwdziałania bezrobociu ludzi młodych?* In: *Bezrobocie i polityka zatrudnienia*. Ed. Z. Góral. Wolters Kluwer, Warszawa 2013, pp. 156–157.

⁵² E. Staszewska-Kozłowska: *Prawo do wypoczynku uczestników staży dla bezrobotnych i praktyk absolwenckich*. "Roczniki Administracji i Prawa" 2024, vol. 4, no. XXIV, p. 370.

⁵³ A. Sobczyk pointed out that exercising right by trainees may be hardly possible, cf. A. Sobczyk: *Niepracownicze zatrudnienie podporządkowane...*, pp. 427–428.

brings the questions concerning non-discriminatory rules and right to fair remuneration.⁵⁴ Therefore, remote work performed by a trainee will not be based on the LC but on a negotiated contract, which may create unequal working conditions compared to other persons working remotely.

4. Conclusions

The conducted analysis demonstrates that the current regulations concerning work performed on the basis of an employment relationship, traineeships for the unemployed, and graduate/student traineeships have separate objectives in their formal and purposive (legislator's intention) dimensions. An employment relationship focuses primarily on performing subordinate work, generally in an already learned occupation (with the exception of adolescent employees), in exchange for remuneration for the work performed. Other forms of work (tasks, as in the case of traineeships for the unemployed, as mentioned earlier) shift their focus to acquiring the experience necessary for future work, limiting, in principle, the importance of the financial aspect. At the same time, this involves attributing a civil law character to these forms of work, when in fact the legal framework, as well as the nature of the work itself, bears the features of subordinate work.⁵⁵ Remote working has not so much changed the way work is done as highlighted the fragile foundations on which the distinction between work under an employment relationship and other forms of work, most often under civil law contracts, is based. Remote work in a virtually-based work environment has brought about a convergence in terms of how work is monitored and its results accounted for, thereby rendering the status of trainees at least questionable, given their partial separation (artificial, in the author's opinion) from labour law regulations.

In view of the functioning of a social market economy and looking at the issue from a systemic perspective, the practical acquisition of professional

⁵⁴ For example, the Complaint no. 150/2017 *European Youth Forum v. Belgium*, cf. J. Hajdú: *A posztgraduális gyakornokok tisztességes díjazásához való joga – a 150/2019 ECSR panaszjeljárás határozat tükrében*. "Miskolci Jogi Szemle" 2022, vol. 17, no. 2, pp. 150–158.

⁵⁵ A. Drabek: *Praktyka absolwencka – środek przeciwdziałania bezrobociu ludzi młodych?...*, pp. 136–164; A. Sobczyk: *Niepracownicze zatrudnienie podporządkowane...*, pp. 424–435.

experience should be regulated within the framework of labour law. The author submits that this will require a change in the definition of an employment relationship, which, on the one hand, is already reaching its interpretative limit due to the regulation of remote work. On the other hand, it limits the possibility of extending its scope to other types of subordinate work. It is conceivable that this will require the introduction of a separate type of contract aimed at gaining professional experience, although unlike in the case of adolescent work, this would occur outside the formal framework of education.

It is worth mentioning here, albeit briefly, the Draft Act on Traineeships (draft UD307⁵⁶), which would replace the Act on Graduate Traineeships. It is difficult to say what form this draft will ultimately take, particularly given that the November 2025 draft underwent a radical change and excluded the possibility of entering into a traineeship agreement under the provisions of the Civil Code and the application of the provisions on contracts of mandate. According to the draft of 20 April 2026, a traineeship is defined as “the performance of tasks for the purpose of acquiring knowledge, practical skills and professional experience on the basis of a traineeship agreement” (Article 2(4)). One positive aspect is that, in accordance with the drafters’ explanations, the traineeship agreement is to be a type of employment contract. However, the draft’s internal coherence is undermined by Article 12 of the draft, which states that if a traineeship is carried out under the conditions specified in Article 22 § 1 of the LC (employment relationship), it shall be deemed to have been concluded on the basis of an employment contract, regardless of the name of the contract. This raises the question of what will happen in practice “if” traineeship agreements are concluded that lack just a single characteristic of an employment relationship and cannot be classified as an employment contract. This may lead to further uncertainty regarding the nature of this legal relationship and limit the effectiveness of enforcing such agreements, which the reform seeks to eliminate.

⁵⁶ Rządowe Centrum Legislacji: Draft act on traineeships, <https://legislacja.gov.pl/projekt/12404454/katalog/13171160#13171160> (accessed: 30.04.2026).

Another point of concern is the inclusion in the draft of a traineeship agreement with an underage trainee.⁵⁷ This additional agreement, alongside the traineeship agreement, seems to function similarly to the graduate traineeship, which is being repealed. This is particularly the case given that it will be regulated similarly to the graduate traineeship and will be outside the scope of the labour law regime, with only a few exceptions.

Aware of the legislative limitations that currently exist in the regulation of other forms of work outside of an employment relationship,⁵⁸ the intention of the lawmakers in regulating the status of trainees is relatively clear, both in the case of those performing tasks as part of a traineeship for the unemployed and in the case of traineeship agreements. The new regulations aim to ensure that trainees are granted a status comparable to that of employees, although this is often governed by separate rules outside the labour code. The effective protection of trainees requires legislative coherence between the lawmaker's stated aims and the legal instruments chosen to implement them. Measures that only partially resemble the employment relationship will continue to leave trainees in a legal grey zone.

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⁵⁷ Trainee who is under 18 years of age, has completed secondary education and fulfils their compulsory education requirements by attending the traineeship in accordance with Article 36(12) of the Act of 14 December 2016 – Education Law (Article 2(1)).

⁵⁸ I. Florczak: *Granice rozszerzania instytucji prawa pracy na zatrudnienie cywilnoprawne*. "Folia Iuridica Universitatis Wratislaviensis" 2015, vol. 4, no. 1, pp. 237–252; A. Musiała: *Prawna problematyka świadczenia pracy w ramach przygotowania zawodowego w polskim Kodeksie pracy...*, p. 314.

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Sprawiedliwe warunki pracy w trakcie odbywania stażu
w polskim systemie prawa pracy –
na przykładzie pracy wykonywanej zdalnie
Streszczenie

Rozwój nowych technologii oraz rosnąca popularność pracy zdalnej stwarzają nowe wyzwania związane z zapewnieniem sprawiedliwych warunków pracy wszystkim wykonującym pracę zarobkową. Polskie prawo pracy wprowadza jednak istotne różnice między pracownikami wykonującymi pracę zdalną a osobami wykonującymi pracę zdalną w ramach stażu. Prowadzi to do odmiennego traktowania tych grup, na przykład w zakresie wynagrodzeń i warunków pracy. Niniejszy artykuł w pierwszej kolejności przedstawia kontekst prawny pracy zdalnej w polskim systemie prawa pracy. Następnie omówiono sytuację prawną różnych grup stażystów w kontekście pracy zdalnej. Na koniec przedstawiono postulaty *de lege ferenda*, mające na celu stworzenie bardziej sprawiedliwych warunków pracy dla stażystów wykonujących pracę zdalną.

Słowa kluczowe: Polska, prawo pracy, stażyści, sprawiedliwe warunki pracy, praca zdalna