Magdalena Rycak
Lazarski University

ASSESSMENT OF SELECTED WORKING CONDITIONS OF WORKERS EMPLOYED ON DRILLING AND EXTRACTION PLATFORMS IN THE LIGHT OF THE EUROPEAN UNION AND INTERNATIONAL LAW

1. INTRODUCTION

The provisions of the Act on maritime labour of August 5, 2015[1], hereinafter referred to as the Maritime Labour Act, entered into force on November 9, 2015. In the Polish legislation, the working and living conditions on seagoing ships had previously been regulated by the Act on labour on merchant vessels of May 23, 1991[2]. However, that act had not been compliant with the requirements of the international law[3].

The objective of the Maritime Labour Act is to implement in the Polish law the Maritime Labour Convention adopted in Geneva by the General Conference of the International Labour Organization (ILO) on February 23, 2006, hereinafter referred to as the MLC[4]. Moreover, the act is a transposition of the following EU regulations:

---

[1] Polish Journal of Laws of October 9, 2015.

[2] Consolidated text: Polish Journal of Laws 2014, item 430.

[3] See the justification to the bill of March 8, 2015, at https://legislacja.rcl.gov.pl/docs//2/254746/254786/254787/dokument154099.pdf (visited December 15, 2016).

[4] The Polish Journal of Laws 2013, item 845. The MLC (Maritime Labour Convention) was ratified by the President of the Republic of Poland on December 27, 2011 and entered into force on August 20, 2013. Before the entry into force of the MLC, 30 ratifications and 33% of the global fleet carrying capacity had been required. The objective of the MLC is to define the minimum requirements for seafarers to work on a ship (Title 1) as well as to introduce regulations concerning conditions of employment (Title 2), accommodation, recreational facilities, food and catering (Title 3), medical care, welfare and social security protection (Title 4). The MLC includes also provisions which are to ensure enforcement on ships of the regulations set out in the Convention (Title 5). The MLC provides for a complex regulation of rights and protection at work with reference to all seafarers, irrespective of their citizenship or flag of the ship they serve on. The MLC scope covers 36 previously adopted conventions relating to this economy sector, 1 protocol and 31 guidelines. See in greater detail on the MLC Convention in M. Tomaszewska, Konwencja o pracy

1) Council Directive 2009/13/EC of February 16, 2009 implementing the Agreement concluded by the European Community Shipowners' Association (ECSA) and the European Transport Workers' Federation (ETF) on the Maritime Labour Convention, 2006, and amending Directive 1999/63/EC[5]. The directive provides for the implementation of the MLC in the EU member states. The implementation deadline expired August 20, 2014;

2) Directive 2013/38/EU of the European Parliament and of the Council of August 12, 2013 amending Directive 2009/16/EC on port State control[6]. The directive provides for control of the requirements for life and work at sea defined in the MLC with respect to ships under foreign flags entering Polish ports, which ensures safety on the EU waters and allows avoiding unfair competition from ships under foreign flags. The directive implementation deadline expired on November 21, 2014;

3) Directive 2013/54/EU of the European Parliament and of the Council of November 20, 2013 concerning certain flag State responsibilities for compliance with and enforcement of the Maritime Labour Convention, 2006[7]. The directive provides for control of requirements for life and work at sea defined in the MLC with respect of ships flying the Polish flag.

The Maritime Labour Act provides for the minimum requirements for seafarers to work on a ship, employment agency, conditions of employment and organization of work on a ship, living and working conditions on a ship, particular obligations and rights of seafarers and shipowners, health care and welfare, the MLC documents, procedures for lodging and considering complaints, work on ships which are not subject to the MLC, and penalties.

2. DRILLING AND EXTRACTION PLATFORMS CLASSIFIED AS NON-CONVENTION VESSELS

Drilling and extraction platforms have been classified as non-convention vessels. The non-convention vessels are governed by the discussed act in the scope defined therein (art. 1 section 3 of the Maritime Labour Act).

In accordance with art. 2 para. 7 of the Maritime Labour Act, a non-convention vessel should be understood as a vessel to which the MLC does not apply, including a ship used exclusively for scientific, research or sporting purposes,

---

ma morzu z 2016 (MLC) – stan po ratfikacji przez Polskę [*Maritime Labour Convention of 2006, MLC – status after the ratification by Poland*], "Prawo Morskie" 2012, Vol. XXVIII, Polish Academy of Sciences in Gdańsk, pp. 135–145.

[5] Official Journal of the European Union L 124 of May 20, 2009.

[6] Official Journal of the European Union L 218 of October 14, 2013.

[7] Official Journal of the European Union L 329 of December 10, 2013.

a ship performing solely a special state service, a fishing vessel, an only inland waterway navigation vessel, a seagoing vessel sailing solely on the waters of the Republic of Poland, except the exclusive economic zone, a seagoing yacht, and a drilling or extraction platform.

It seems, though, that the drilling or extraction platform may be classified only as a seagoing merchant vessel and as such is subject to the MLC. In accordance with the definition provided for in art. II 1(i), a ship should be understood as a vessel other than one which navigates exclusively in inland waters, sheltered waters and waters adjacent to them, or areas where port regulations apply. Under art. II 4 of the MLC, as a rule the convention provisions are applicable to all ships, publicly and privately owned, which engage in commercial activity, other than ships used for fishing or similar purposes and ships of traditional construction, such as dhows and junks. The MLC does not apply to warships or naval auxiliaries. It should be emphasized that in the law-making process the Polish legislator did not provide any rational arguments for excluding the drilling platforms from the MLC.

Under the provisions of the Act of September 18, 2001 – the Maritime Code[8], hereinafter referred to as the Maritime Code, offshore drilling and extraction platforms should be classified as seagoing merchant vessels. In accordance with art. 2 § 1 of the Maritime Code, a seagoing vessel is any sailing construction designed or used for maritime navigation. A seagoing merchant vessel, in turn, is a ship designed or used for conducting commercial activity, in particular for: carrying cargo or passengers, offshore fishery or obtaining other sea resources, towage, rescue and salvage, recovery of property sunk in the sea, extracting mineral deposits from the seabed and resources in the Earth layers underneath.

The scope of the Maritime Labour Act shall cover only those drilling or extraction platforms which may be classified as seagoing ships, i.e. sailing constructions designed or used for maritime navigation. Therefore, the provisions of the Maritime Labour Act do not apply to those workers who are employed on a platform which does not comply with the above definition, in other words which is not navigable (e.g. such platform is attached to the seabed).

3. ORGANIZATION OF LABOUR OF WORKERS EMPLOYED ON DRILLING AND EXTRACTION PLATFORMS IN THE LIGHT OF COMPLIANCE WITH THE EUROPEAN UNION LABOUR LAW AND THE MLC

Work on non-convention vessels, including drilling and extraction platforms, has been regulated in Chapter 10, art. 100−108 of the Maritime Labour Act. Arti-

[8] Consolidated text, Polish Journal of Laws 2001, No. 138, item 1546.

cle 108 of the said chapter provides also for working time on drilling and extraction platforms. However, the regulation is not exhaustive, and in accordance with art. 5, the provisions of the Act of June 26, 1974 – the Labour Code[9], hereinafter referred to the Labour Code, and other labour law regulations, are applicable to the employment relationships on ships in the scope not covered by the Maritime Labour Act. As a result, workers on drilling and extraction platforms should be employed under one of the working time schemes stipulated in the Labour Code as those persons are not covered by the provisions of art. 43−47 of the Maritime Labour Act, which define the working time concept, working time schemes, and daily resting time of seafarers, as well as overtime work (*cf.* art. 100 section 1 para. 2 of the Maritime Labour Act).

For the sake of clarity, it should be raised that in a legal sense the workers on drilling or extraction platforms, being at the same time seagoing vessels, should be regarded as seafarers in the meaning adopted in the Maritime Labour Act. In accordance with art. 2 para. 3 of the Maritime Labour Act, a seafarer should be understood as a person having professional qualifications defined in Chapter 4 of the Act on maritime safety of August 18, 2011[10], as well as any other person employed on a ship, except for a person who occasionally performs work there which is not connected to maritime sailing. Although workers employed on drilling or extraction platforms in fact do not perform work connected to maritime sailing, their work is not occasional but has a regular and permanent nature.

In accordance with art. 108 section 1 of the Maritime Labour Act, working time on drilling or extraction platforms, operated by staff or teams of staff on consecutive shifts, may be extended up to 14 hours per day and 84 hours per week. In such a case, after each, no longer than a fortnight, uninterrupted working period a worker is eligible to at least the equivalent time off on shore. Upon the worker's consent, the working period may be extended up to three weeks. It should be assumed also that workers on drilling or extraction platforms are subject to equivalent working time with the possibility of extending the daily limit to 14 hours and with the settlement period resulting from the Labour Code provisions, adopted in the binding collective labour agreement or work rules (or alternatively in an agreement concluded with trade unions based on art. 129 § 2 of the Labour Code).

Under art. 108 section 2 of the Maritime Labour Act, the legislator stipulates that work within the working time standards, as defined under section 1, is not considered overtime if the number of working hours in the adopted settlement period does not exceed 44 hours on average. In the case when work is performed in accordance with the regulations of section 1, the provisions of art. 133 of the Labour Code, i.e. the provisions defining the minimum weekly rest, are not applicable.

[9] Polish Journal of Laws 2014, item 1502, as amended.

[10] Polish Journal of Laws 2015, items 611, 1320 and 1336.

The provision of art. 108 of the Maritime Labour Act should be considered incompliant with the regulations of the Council Directive 1999/63/EC of June 21, 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (EST) – Annex: European Agreement on the organisation of working time of seafarers[11]. According to Clause 5 of the Annex to the above-mentioned directive, which is a European Agreement regulating the working time of seafarers, the time limits for work or rest hours amount to:

a) maximum hours of work which shall not exceed:
   i) 14 hours in any 24-hour period; and
   ii) 72 hours in any seven-day period;

or

b) minimum hours of rest which shall not be less than:
   i) 10 hours in any 24-hour period; and
   ii) 77 hours in any seven-day period.

The regulation should be understood to mean that the member states may decide on one of the options, i.e. provide for the maximum hours of work or the minimum hours of rest. Moreover, the working time limits quoted above should be treated as those including potential overtime.

Furthermore, the hours of rest may be divided into no more than two periods, one out of which must amount to at least six hours, and the interval between two consecutive periods of rest may not exceed 14 hours (Clause 5(2)).

Paragraph 3 of the above clause introduces the requirement that musters of the staff, fire-fighting and lifeboat drills prescribed by international agreements and national laws and regulations should be conducted in the manner that would minimise the disturbances in the rest time and would not cause fatigue.

The provision of art. 108 of the Maritime Labour Act is incompliant with the above regulation with respect to some aspects, namely it allows the extension of the working week to 84 hours (in accordance with the quoted clause, the extension is possible up to 72 hours) and abandoning of the Labour Code provisions stipulating the minimum weekly rest period. In line with the above-mentioned clause, the weekly rest period should amount to minimum 77 hours. Moreover, the Polish act does not include a provision which would require that musters of the staff, fire-fighting and lifeboat drills prescribed by international agreements and national laws and regulations should be conducted in the manner that would minimise the disturbances in the rest time and would not cause fatigue.

Due to potential doubts whether the provisions of the quoted directive are applicable to workers employed on drilling or extraction platforms, it should be indicated that the directive applies to seafarers on board of every seagoing ship,

[11] Official Journal of the European Communities L 167/35 of July 2, 1999.

either publicly or privately owned, which is registered in the territory of any member state and engages in commercial activity at sea.

In case of doubt, the competent authority of the member state should determine whether given ships are to be regarded as seagoing ships or engaging in commercial activity for the purpose of the Agreement. The organisations of shipowners and seafarers should also be consulted (Clause 1(1) and (2) of the Annex to the Council Directive 1999/63/EC).

A drilling or extraction platform, in the light of the discussed act, should be regarded as a non-convention seagoing merchant vessel, therefore, covered by the Council Directive 1999/63/EC. This is confirmed also by the above-mentioned art. 2 § 1 of the Maritime Code, in accordance with which a seagoing ship is any sailing construction designed or used for maritime navigation, as well as by art. 3 § 2 of the Maritime Code, under which a seagoing merchant vessel is a ship designed or used for conducting commercial activity, in particular for: carrying cargo or passengers, offshore fishery or obtaining other sea resources, towage, rescue and salvage, recovery of property sunk in the sea, extracting mineral deposits from the seabed and resources in the Earth layers underneath.

Workers on drilling or extraction platforms should also be treated as seafarers in the light of the definition provided for in the Council Directive 1999/63/EC. A seafarer should be understood to mean any person employed or engaged in any capacity on board a seagoing ship to which the Agreement applies (Clause 2(c) of the Annex to the Council Directive 1999/63/EC).

It should be noted that the Directive 2003/88/EC of the European Parliament and of the Council of November 4, 2003 concerning certain aspects of the organisation of working time, hereinafter referred to as the Directive 2003/88/EC, provides for in art. 1(3), sentence two, that it shall not apply to seafarers, as defined in the Directive 1999/63/EC without prejudice to art. 2(8) of the above-said directive which contains the definition of work on offshore installations (work performed mainly on or from offshore installations, including drilling platforms, directly or indirectly related to exploration, extraction or exploitation of mineral resources, inclusive of hydrocarbons, and diving involved in such activities, irrespective of whether those are performed from offshore installations or a vessel).

Article 17(2) lists permissible derogations from art. 3−8 and 16 of the directive in case of work performed on offshore installations.

Since the Polish legislator does not include distinctly the Directive 2003/88/EC among the implemented directives in the footnote 1 to the title of the Maritime Labour Act, it should be assumed that the act does not implement that directive correctly. It is commonly understood that, irrespective of the requirement of national legal interpretation being compliant with the directive, the transposition of the directive in the national law should be precise enough to ensure that reference to the directive itself is not necessary when applying the relevant

national laws[12]. In accordance with the principles of the low-making practice, the national normative law (whether an act or a regulation) which transposes the directive should specify such directive in the footnote to the title of that law. The footnote should quote the complete title of the directive (including the issuing institutions, the full title of the law and the date when adopted) along with the first promulgation place and if applicable, after a semicolon, the place of publication of the Polish special issue of the Official Journal of the European Union[13].

It should be also noted that the assessment of the effects of the discussed act and the justification to the bill on maritime labour do not indicate the transposition of the Directive 2003/88/EC[14] as one of the aims of the act.

Due to the fact that the Directive 2003/88/EC provides for the working time of persons employed on drilling platforms in a less favourable manner than the Directive 1999/63/EC (by introducing a number of disadvantageous exceptions for that group of workers), it cannot be presumed that the Polish legislator implemented the directive with regard to the legal context, i.e. by means of the applicable national laws which ensure explicit and accurate enforcement of the directive's objective, provide a transparent legal environment for individuals and guarantee "genuine and full" execution of the European law in the national legislation[15]. Moreover, the exceptions may not be surmised.

The discussed act is incompliant with the MLC, either. In accordance with Regulation 2.3 (Standard A2.3) of the MLC, the maximum limit on hours of work for seafarers shall not exceed 14 hours in any 24-hour period and 72 hours in any seven-day period, or the minimum hours of rest shall not be less than 10 hours in any 24-hour period and 77 hours in any seven-day period.

The regulation should be understood to mean that a state being the signatory of the MLC may decide on one of the options, i.e. it can either provide for the maximum hours of work or the minimum hours of rest. The limits on working hours indicated above should be regarded as the limits including potential overtime.

Moreover, the hours of rest may be divided into no more than two periods, one out of which must amount to at least six hours, and the interval between the consecutive periods of rest may not exceed 14 hours.

---

[12] Office of the Committee for European Integration, Assurance of effective implementation of the European Union law in the Polish law. Guidelines for the legislative policy and good law-making practice, Warsaw 2003, pp. 21–25.

[13] See para. 80 of the Guidelines for the legislative policy and good law-making practice. Assurance of effective implementation of the European Union law in the Polish law, available at http://www.rcl.gov.pl/079_Wytyczne_v04_2009.pdf (visited September 12, 2016).

[14] See https://legislacja.rcl.gov.pl/docs//2/254746/254786/254787/dokument154101.pdf and https://legislacja.rcl.gov.pl/docs//2/254746/254786/254787/dokument154099.pdf (visited December 15, 2016).

[15] See para. 66 of the Guidelines for the legislative policy and good law-making practice. Assurance of effective implementation of the European Union law in the Polish law, available at http://www.rcl.gov.pl/079_Wytyczne_v04_2009.pdf (visited September 12, 2016).

Paragraph 7 of the above-quoted standard clause introduces the requirement that musters of the staff, fire-fighting and lifeboat drills prescribed by international agreements and national laws and regulations should be conducted in a manner that would minimise the disturbance of rest periods and would not cause fatigue.

Article 108 of the Maritime Labour Act is, therefore, incompliant with the above-named regulation as it permits extending of the weekly working time to 84 hours (in accordance with the quoted standard, the extension is possible up to 72 hours) and abandoning of the Labour Code provisions stipulating the minimum weekly rest period. In contrast, in line with the invoked regulation, the weekly rest period should amount to minimum 77 hours.

4. JUDICIAL PROTECTION AND ASSERTING LABOUR RIGHTS PROTECTION

The EU directives may have a direct vertical effect, i.e. the impact experienced by individuals and a member state. The individual rights provided for in a directive may be pursued with respect to such state, with this possibility excluded in relations between individuals. The state is understood in this regard in a flexible way and it does not matter which of its bodies is involved: central or local authorities, tax authorities, authorities responsible for maintenance of public order and safety, and public authorities providing health care services.

It does not matter whether a complaint is lodged against the state understood as public authority or the state acting as an employer[16].

The Court of Justice of the EU in several judgements defined the criteria for regarding a liable employer as the state, i.a. in the *Foster* case[17], in which the national court enquired about admissibility of regarding a privatised state enterprise (British Gas Corporation) as the respondent in the proceedings for damages, relying directly on the provisions of the Council Directive 97/207/EEC of February 9, 1976. In the above case, the CJEU held that unconditional and sufficiently precise provisions of the directive could be relied on against organisations or bodies which were subject to the authority or control of the state or which exercised special powers (authority) beyond those which result from the normal rules applicable to relations between individuals.

In each case, the directive provisions may be applied against a body which, without regard to its legal form, has been made responsible – in accordance with the regulations adopted by the state – for providing public services under the state

[16] See *Marshall I* case, judgment of February 26, 1986 in case C-152/84, *M.H. Marshall v Southampton and South-West Hampshire Area Health Authority Teaching.*

[17] Judgment of July 12, 1990 in case C-188/89, *A. Foster and others v British Gas. plc.*

control and for that purpose exercises special powers beyond those which result from the normal rules applicable between individuals.

The standpoint of the CJEU presented above largely extends the scope of the direct application of directives by making national courts assess whether an employer against which the employee's claim has been lodged meets the criteria stipulated by the CJEU. The duty is even more difficult due to the insufficiently formulated and vague stance of the Court in this respect.

In the light of the above discussion, workers employed on drilling or extraction platforms during the working time organised in line with the standard included in art. 108 of the Maritime Labour Act have the right to lodge a complaint against their employer and to rely in their claims directly on the EU directives, including primarily the Directive 1999/63/EC, in Polish labour courts if their employer may be considered a representation of the state, i.e. the employer responsible for the state (e.g. when the State Treasury is the main shareholder in an enterprise).

The Constitution of the Republic of Poland provides the grounds for direct application of international agreements as the basis of judgments in individual cases (art. 91 of the Polish Constitution), owing to which the ILO conventions may be relied on as the source of subject laws. In accordance with art. 91 section 1 of the Polish Constitution, a ratified international agreement, having been promulgated in the Journal of Laws, becomes part of the national legal system and is directly applicable, unless its application requires passing of an act. The MLC, being an international agreement the ratification of which requires consent from the Parliament expressed by means of the act, has therefore primacy over the act, if such act cannot be reconciled with the agreement (art. 91 section 2 of the Polish Constitution). The Constitutional Tribunal and national labour and social security courts are obliged to directly rely on international conventions if those provide for the subject rights of individuals (such as employees' rights). The MLC is among international agreements the ratification of which requires consent expressed in the act since it concerns employees' rights and obligations, i.e. freedoms, rights and obligations of citizens stipulated in the Polish Constitution. Consequently, labour courts have the constitutional grounds for applying the MLC with respect to the working time based on the primacy rule over the respective provision of the Maritime Labour Act.

5. CONCLUSIONS

1. The provisions of the Maritime Labour Act of August 5, 2015 have not implemented the Directive 2003/88/EC of the European Parliament and of the Council of November 4, 2003 concerning certain aspects of the organisation of working time.

2. A drilling or extraction platform may be classified exclusively as a seagoing merchant vessel and as such is covered by the MLC provisions.

3. Article 108 of the Maritime Labour Act should be considered incompliant with the Council Directive 1999/63/EC of 21 June 21, 1999 concerning the Agreement on the organisation of working time of seafarers concluded by the European Community Shipowners' Association (ECSA) and the Federation of Transport Workers' Unions in the European Union (EST).

4. The Maritime Labour Act shall cover only those drilling or extraction platforms which may be classified as seagoing ships, i.e. sailing constructions designed or used for maritime navigation. Workers employed on a platform which does not comply with the above definition, in other words which is not navigable (e.g. such platform is attached to the seabed), are not subject to the discussed provisions of the Maritime Labour Act. Consequently, it may be the case that the same employer applies different rules for determining and settlement of the working time of employees performing the same duties requiring comparable qualifications, which could be regarded as the infringement of equal treatment in employment, as defined in art. 11(2) of the Labour Code.

5. Workers employed on drilling or extraction platforms during the working time organised in line with the standard included in art. 108 of the Maritime Labour Act have the right to lodge a complaint against their employer and to rely in their claims directly on the EU directives, including primarily the Directive 1999/63/EC, in Polish labour courts if their employer may be considered a representation of the state.

6. In the law-making process during which the act was adopted, the constitutional rule of social dialogue, assuming the balance of powers between partners in the negotiations, was infringed. The standpoint of employees was in fact neglected in the legislative process ("the achieved agreement between shipowners, trade unions and representatives of the ministries has been rejected by the decision of the Ministry of Finance!"[18]), and "it could not be possible to regard solutions resulting in the dominance of one of the parties as the outcome of the dialogue, therefore, they cannot be supported by constitutional standards which provide for the possibility of defining essential working conditions by social partners"[19].

[18] See the address of the workers' delegate, J. Dubiński, at the 102nd Session of the International Labour Conference of June 14, 2013, at http://www.mop.pl/html/polska_w_mop/Przemowienia-delegatow/Jacek_Dubinski102.html (visited December 15, 2016).

[19] Ł. Pisarczyk, Opinion on bills on amendment of the Labour Code Act and the Trade Unions Act (print No. 1105) and on the act on amendment to the act – Labour Code (print No. 1116), available in Polish at www.sejm.gov.pl.

ASSESSMENT OF SELECTED WORKING CONDITIONS OF WORKERS EMPLOYED ON DRILLING AND EXTRACTION PLATFORMS IN THE LIGHT OF THE EUROPEAN UNION AND INTERNATIONAL LAW

Summary

The paper discusses working conditions of workers employed on drilling and extraction platforms as provided for in the Act on maritime labour of August 5, 2015 (henceforth Maritime Labour Act) from the viewpoint of the their compliance with the European Union and international law.

The author examines the problem of classification of drilling and extraction platforms as non-convention vessels in the provisions of the Maritime Labour Act. The analysis leads to a conclusion that, in the light of the Maritime Labour Convention adopted in Geneva by the General Conference of the International Labour Organization (ILO) on February 23, 2006 (henceforth the MLC) and the Act of September 18, 2001 – the Maritime Code, drilling or extraction platforms shall be regarded exclusively as seagoing merchant vessels and as such are covered by the MLC provisions. Workers on drilling or extraction platforms, which at the same time are seagoing ships, should be considered seafarers in the meaning of the Maritime Labour Act.

The subject of the analysis covers also regulations concerning the organization of working time, in particular referring to workers employed on drilling and extraction platforms, with respect to its compliance with the EU labour law and the MLC. The regulation of working time of workers on drilling or extraction platforms as provided for in the Maritime Labour Act should be regarded as incompliant with the provisions of the Council Directive 1999/63/EC of June 21, 1999 and the MLC in the scope in which it permits extension of weekly working time to 84 hours and abandoning of the Labour Code provisions stipulating the minimum weekly rest period.

The author concludes that the provisions of the Maritime Labour Act have not implemented the Directive 2003/88/EC of the European Parliament and of the Council of November 4, 2003 concerning certain aspects of the organisation of working time (Directive 2003/88/EC).

Finally, the author touches upon the issue of judicial protection and asserting labour rights of workers employed on drilling and extraction platforms. The considerations lead to a conclusion that labour courts have the constitutional grounds for applying the MLC with respect to the working time based on primacy of that international regulation over the respective provision of the Maritime Labour Act.

Concluding, the author indicates also that the constitutional rule of social dialogue was infringed during in the law-making process concerning the Maritime Labour Act.

BIBLIOGRAPHY

Address of the workers' delegate, J. Dubiński, at the 102nd Session of the International Labour Conference of June 14, 2013, at http://www.mop.pl/html/polska_w_mop/Przemowienia-delegatow/Jacek_Dubinski102.html (visited December 15, 2016)

Assurance of effective implementation of the European Union law in the Polish law, available at http://www.rcl.gov.pl/079_Wytyczne_v04_2009.pdf (visited September 12, 2016)

Office of the Committee for European Integration, Assurance of effective implementation of the European Union law in the Polish law. Guidelines for the legislative policy and good law-making practice, Warsaw 2003

Pisarczyk Ł., Opinion on bills on amendment of the Labour Code Act and the Trade Unions Act (print No. 1105) and on the act on amendment to the act – Labour Code (print No. 1116), available in Polish at www.sejm.gov.pl

Tomaszewska M., *Konwencja o pracy na morzu z 2006 (MLC) – stan po ratyfikacji przez Polskę* [*Maritime Labour Convention of 2006, MLC – status after the ratification by Poland*], "Prawo Morskie" 2012, Vol. XXVIII, Polish Academy of Sciences in Gdańsk

KEYWORDS

workers employed on drilling and extraction platforms, non-convention vessels, Maritime Labour Act of August 5, 2015, seafarer, Directive 2003/88/EC, Council Directive 1999/63/EC, working time of workers employed on drilling and extraction platforms, judicial protection and asserting of labour rights of workers on drilling and extraction platforms

SŁOWA KLUCZOWE

pracownicy zatrudnieni na platformach wiertniczych i wydobywczych, statki niekonwencyjne, ustawa z dnia 5 sierpnia 2015 r. o pracy na morzu, pojęcie marynarza, dyrektywa 2003/88/WE, dyrektywa Rady 1999/63/WE, czas pracy pracowników zatrudnionych na platformach wiertniczych i wydobywczych, sądowa ochrona i dochodzenie praw pracowniczych pracowników zatrudnionych na platformach wiertniczych i wydobywczych