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Labour law in the face of economic crisis

Introductory note

The episodic Anti-Crisis Labour Act of 1.07.2009 dealt with the current economic crisis.[1] The Act of 7.01.2009 introduced the concept of economic standstill, the labour law institution, which allows temporary suspension of obligations of the parties to individual employment relationships without the termination of the contract. It also introduced important changes in the employment of workers under fixed term employment contracts. The Anti-Crisis Labour Act therefore, created for the employers the flexibility in managing their labour matters. The issue on hand however is that the above statute was temporary and could have been applied only to employers, who for economic reasons find themselves in temporary financial difficulties. However, if this law was applied for a period of more than two years, then aside from the employers, the process would begin to involve trade union organizations, employees and state administration bodies. For this reason, we have decided

[1] This article is based on a paper presented at the 10th European Congress of International Labour Law and Social Security to the keynote speach delievered by Prof. dr h.c. Miguel Rodrigez-Piñero y Bravo-Ferrer "El Derecho del Trabajo y las relacionnes laborales ante los cambios económicos y sociales" (Labour Law and Labour Relations in the Light of the Economic and Social Changes), Seville, Spain.
Dziennik Ustaw [Journal of Laws of the Republic of Poland] of 2009, no. 125, item 1035. The Act was binding until 20 of November 2013; see: A.M. Świątkowski, *Ustawa antykryzysowa z komentarzem* [The Anti-Crisis Labour Act with Commentary], Warszawa 2010; L. Mitrus, *Anti-Crisis Regulations of Polish Labour Law*, European Labour Law Journal, vol. 1, no. 2, 2010, p. 269 ff.

to present the basic legal structures of the Anti-Crisis Labour Act at the Sevilla 10th European Congress of the International Society for Labour Law and Social Security in 2011.

We believe the Act was a serious constituent in altering the mindset of the social partners and representatives of government and public administration on matters relating to the function of labour law. In the place of sole employee protection, the standards introduced by the state, the temporarily relaxed labour laws created due to the economic crisis might lead in the future to a sustainable liberalization of labour laws, which, according to us, should take into account not only the protection of workers' rights, but also the interests of employers, and fore mostly the common good, being the economic growth and development of society.

Economic standstill

Another institution, which was introduced to facilitate the employer during an economic downturn on the one hand, and on the other to protect the employees against dismissal, is the institution of an economic standstill. It allows the employer in a situation of reduced demand for goods to limit labour costs without having to actually reduce employment. The employer may at the same time in the event of a market upturn immediately increase production. This economic standstill is defined in Article 2 point 8 as a "failure to carry out work at a workplace in temporary financial difficulties by an employee who is available to work but for economic reasons that are not attributable to the employee." It should first be noted that the economic standstill will only apply to those employers who find themselves in temporary financial difficulties. An employer remaining in temporary financial difficulties is defined by Article 4 of the Act on freedom of economic activity, whereby the employer in conjunction with the economic crisis experienced temporary financial difficulties marked by a decline in economic turnover, defined as sales of goods or services, not less than 25% of the calculated quantity or value when compared to the same months in period from 1 July 2007 to 30 June 2008 (Article 3 paragraph 1 point 1 of the Anti-Crisis Labour Act).[2]

[2] Article 3 paragraph 1 provides further conditions for an employer to obtain the status of interim financial difficulties. Provisions of the Act therefore apply to the employer:
1) who does not fall behind in the settling of tax debts, contributions for social security and health insurance and the Labour Fund. With the exception if an employer:
a) is indebted and has entered into an agreement on repayment of debt and makes regular installments or has made use of the deferment of payment, or
b) if the missed social security contributions and health insurance and the Labour Fund occurred in the period after 1 July 2008 whilst the recovery program, referred to in paragraph 5, provided for full repayment of these obligations,

Polish employment law did not deal with the concept of an economic standstill until now. This term however, did appear in the Polish doctrine, determined by the standstill institutions governed by Article 81 of the Labour Code, naming the standstill due to market reasons. This provision assumes that an employee during the period of not working, if he/she was ready to work whilst the obstacles he/she endured were for reasons related to the employer, is entitled to remuneration arising from his/her hourly or monthly rate, and if such a component was not specified, then 60% of the employee's salary. The economic standstill is regulated by the Act of 7 August 2009 and can be regarded as a variation of the standstill referred to in Article 81 of the Labour Code. It should be noted that this view is not shared by the Supreme Court ruling of 16 October 1992 stating "if we bypass the cause of interruption of employment due to weather conditions (Article 81 § 4 of the L.C.), as well as the special situation, when it is the worker's fault, a standstill in legal literature is said only to be when there is a malfunction in the workplace due to technical or organizational reasons, with economic reasons never being mentioned, which is a testament as to how we should understand a standstill, not only through labour law jurisprudence, but also – because of the lack of definition within the Code – through the Labour Code provisions."[3]

Between the standstill in Article 81 of the Labour Code and the economic standstill of the Anti-Crisis Act, there are important differences. An employee in a period of standstill in accordance with Article 81 of the Labour Code

2) for which there are no prerequisites for bankruptcy, referred to in Article 11–13 of the Act of 28 February 2003 – Bankruptcy and Reorganization Journal of Laws of 2003, no. 60, item. 535, as amended)

3) who on 1 July 2008 was not in a difficult economic situation in the understanding of the Communication of the Commission – concerning the communal State aid guidelines for rescuing and restructuring companies in difficulty (Official Journal EU C 244, 1.10.2004, p. 2) and in the meaning of Article 1 paragraph 7 of Commission Regulation EC No. 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market as applied by Article 87 and 88 of the Treaty (General Block Exemption) (Official Journal EU L 214, 09.08.2008)

4) who developed a rescue plan, improving the financial health of the businesses, prepared for the year calculated from the first day of the month following the date of application referred to in Article 14 paragraph 1,

5) who did not receive public assistance for either equipment or the creation of a work post for an unemployed person with monies from the Labour Fund, in accordance with the contract concluded for a refund under Article 46 paragraph 1, point 1 of the Act of 20 April 2004 concerning the promotion of employment and labour market institutions on or after 1 February 2009 or have had received this support but from the date the decision was issued to grant such assistance at least 12 months had passed,

6) who has obtained a certificate confirming the fulfillment of these conditions.

[3] Resolution of the Supreme Court of 16 October 1992, ref. Act I PZP 58/92, OSNCP 1993, 6, pos. 95

retains his/her right to remuneration- so this is an exception to the principle in Polish labour law that remuneration should only be paid for work rendered. In the case of an economic standstill an employer is not obliged to pay such remuneration. In return, the employee who is under the economic standstill situation, receives monetary payments from the Guaranteed Employee Benefits Fund intended to satisfy some of the payroll requirements for the time of an economic standstill or is entitled to a grant funded by the Labour Fund to the amount of that is 100% equal to unemployment benefits payable under Article 72 of the Act on Employment Promotion and Labour Market Institutions. These monies are supplemented by the remuneration paid by the employer so that the total sum is equal to the minimum wage for work rendered . Such remuneration shall not be paid for longer than 6 months. The legislature has foreseen the provision shall not be entitled to an employee who, during the economic standstill, takes sick leave under Article 92 of the Labor Code or the law on social insurance for accidents at work and occupational diseases[4] or sickness allowance, payable pursuant to the Act on financial benefits of social security in the event of sickness and maternity leave[5] (Article 5 paragraph 3 of the Anti-Crisis Act). The ill- wording of Article 5 paragraph 3 should be pointed out. It can not be considered that employees taking advantage of social security benefits or guaranteed remuneration remain in readiness to undertake work. Readiness to work applies to an employee who as actually at the disposal of the employer. As ruled by the Supreme Court "by remaining at the disposal of the employer as part of a readiness to work within the meaning of Article 81 § 1 of the Labour Code is to be understood as a condition in which the employee may immediately work if requested by his/her employer."[6] Meanwhile, workers receiving benefits under Article 5 paragraph 3 cannot be regarded as being ready to take the job immediately (remaining in readiness to perform work), as the granting of such benefits excludes such readiness, *ex definitione*. Hence, Article 5 paragraph 3 of the Anti-Crisis Act should considered redundant.

It should be noted that the employee is covered by the standstill stipulated in Article 81 of the Labour Code not automatically – no additional actions on behalf of the employer or employee are needed. There is somewhat of a difference in the case of the economic standstill in the Anti-Crisis legisla-

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4 Act of 30 October 2002 on social insurance for accidents at work and occupational diseases (Journal of Laws of 2009, no. 167, item. 1322).

5 Act of 25 June 1999 on cash benefits from social insurance for sickness and maternity benefits (Journal of Laws of 2010, no. 77, item. 512).

6 Ruling of the Supreme Court on 2 September 2003 Ref. Act I PK 345/02, OSNP 2004, no. 18, pos. 308.

tion. Encompassing the workers with such a standstill requires their approval. This consent must for its effectiveness be expressed in writing and given with prior notice. This brings to mind the possibility of refusing to grant such a consent by a worker. The assumption of the anti-crisis law is to ensure that employers are able to cut their costs related to remuneration during times of reduced economic growth. The provision allows employers to plan their resource expenditure and its temporary redistribution. Allowing employees to withdraw at any time their agreement to the standstill cover would disallow their employer to reasonably plan his/her expenses. The employer, in such a situation, would at any moment have to reckon with the need for re-payment of the wages to his/her employees. It is therefore important to note that once a worker gives his/her consent it should not be withdrawn. It is also impossible to share the view that it is possible to establish between the employee and the employer that the former will have the power to independently decide on the withdrawal of consent[7]. Consent is a unilateral act and the legislature did not point out in the Anti-Crisis Act that it is possible to lodge consent with a condition of terminating it. However, there is no impediment for the employee to withdraw consent once the employer gives his/her approval. This approach allows the employer to have influence over the number of employees who are covered by the standstill, and thus contribute to achieving the goal of the Act.

Another difference between the standstill stipulated by the Labour Code, and the economic standstill as defined in the Anti-Crisis Act is the period in which the employees may be covered. Article 81 of the Labour Code does not specify the length of time a standstill. Therefore it should be assumed that the legislature has not established standstill time limits under which employees may be covered. There is somewhat of a difference as far as the Anti-Crisis Act is concerned. In accordance with Article 4 of the Act of 1 July 2007 time in which the employee is entitled to receive the benefits granted during the period of economic standstill can not exceed 6 months. Although the employer may thereafter continue to limit the scope of employment, but is obliged to pay employees covered by the economic standstill full salary. Employees may be covered by the economic standstill for less than 6 months. The basis for reducing 6-month period is the decision of an employer who has a right to at any time waive the application of economic standstill.

The difference in the status of workers affected by the standstill between

[7] J. Stelina and M. Zieleniecki seem to represent this view, cf. J. Stelina, M. Zieleniecki, *Regulacje antykryzysowe z zakresu prawa pracy* [Anti-Crisis Regulations of Labour Law], Praca i Zabezpieczenie Społeczne 2009, no. 11, p. 17.

Article 81 of the Labour Code and the Anti-Crisis Act should also be emphasised. Under this latter Act the employer may not, during the period when an employee is collecting benefits due to economic standstill and for 6 months thereafter, terminate a contract of employment for reasons unrelated to the contract itself of a workers affected by the economic standstill. Such a restriction is not imposed on employers where a standstill eventuated under the meaning of Article 81 of the Labour Code. It should be noted that this adjustment, no doubt intended to protect workers, was met with sharp criticism among entrepreneurs who suggest that such a long period of protection discourages many employers who are not sure of the effectiveness of public support, to make use of the solutions provided by the legislation. The proposed amendment to the Act provides for reducing the anti-crisis period of protection from terminating an employment contract (for reasons unrelated to the employee employed by an employer who is in temporary financial difficulties) until the period of collecting benefits as a form of partial satisfaction of wages during the economic standstill and 3 months immediately after the collection of such benefits.[8]

A positive analysis should be given to the proposed changes. Undoubtedly, it will encourage employers to make use of the institution of the standstill and therefore contribute to improving the situation of many companies, thus protecting the large number of them from possible bankruptcy.

A final element differentiating the two distinct types of a standstill, is the possibility of assigning other work to the employees during the standstill. This action is permitted by the Labour Code, which provides the employee may be entrusted with other suitable work during the period of the standstill, for which the employee will receive remuneration that is not lower than the wages the employee would receive if there was no standstill period enforced

[8] The draft bill amending the law on mitigating the effects of economic crisis on workers and employers, Parliamentary (Sejm) No 3240. In support of this project it was established that „the law as it stands, forbids to speak of the employment contract for reasons unrelated to the employee during the collection of employee benefits for partial satisfaction of employee wages for the time of an economic standstill and a period of 6 months immediately after the collection of these benefits. Such a long period of protection for workers, where claims were filed under the Act, is discouraging employers to benefit from the solutions of the Act. The change is intended to mitigate the obligations imposed on employers, which consist of shortening the period of protection of employment benefits. As a consequence, it will be a significant liberalization of the law that encourages employers to take advantage of statutory solutions. The proposed amendment to Article 6 involves shortening the period of protection for workers and, consequently, prohibiting the termination of employment contracts for reasons unrelated to the employee, will apply to the period when an employee is in receipt of partial satisfaction of employee wages for the time of the economic standstill and for the three months attributable to the period immediately after the collection of these benefits."

(Article 81 § 3 of the Labour Code). Such a possibility is not foreseen by the Anti-Crisis Act. According to Article 2 point 8, the economic standstill is a period of economic inactivity, whereby an employee is included. The literal interpretation of that provision indicates that the prohibition applies to both the work performed under a contract of employment as well as other relevant work. The question arises whether an employee not carrying out the work during an economic standstill must be remain in readiness to undertake work or not? It is arguable that an employee should remain ready to undertake work during the whole economic standstill period. This follows from the fact that the employer may at any time withdraw from the economic standstill, and in this situation the worker should immediately resume his/her work. Therefore one may agree with J. Stelina and M. Zieleniecki's view expressed by the Supreme Court, stating an employee who undertook replacement work, remains in readiness to resume work, if the obstacle that caused the standstill is permanent in its nature, applying also to the economic standstill.[9] It should be added, however, that the work undertaken during the economic standstill in such circumstances should not prevent an employee to resume his/her initial employment, if an employer withdraws from the the economic standstill, either immediately or within a short, reasonable period of time.[10]

In summary the introduction of the economic standstill conception should be viewed as a positive turn. It allows employers who find themselves in interim financial difficulty to maintain the current employment status while reducing costs spent on the payment of wages. Introduction such a new concept to the Polish labour law, economic standstill should be considered as a great convenience for the operation of employers and an element of the liberalisation of labour relations. Negative aspects however exist in the heightened level of protection afforded to employees after the economic standstill ceases, as it is a trend towards increased labour market regulations and restricting the freedom of employers. Perhaps it would be beneficial to maintain a slightly modified form of the economic standstill even after the expiry of the Anti-Crisis Act period.

The liberalization of employment as based on fixed-term contracts

The Anti-Crisis Act introduced changes in the employment of workers under fixed-term employment contracts. In the Polish system of labour law

[9] J. Stelina, M. Zieleniecki, *op. cit.*, p. 20.

[10] Ruling of the Supreme Court on 2 September 2003, Ref. Act I PK 345/02, OSNP 2004, no. 18, pos. 308.

a fixed-term contract is one of the types of employment contracts, among which include the non-fixed employment contracts, trial basis contracts and contracts for a specified job. Considered by the Labour Code as a solution to be applied where short-term employment is required, the agreement is in fact often regarded by some employers as a basic form of employment. In accordance with the introduction of the Act of 2 June 1996[11] into the Polish Labour Code, Article 25 concerning fixed-term employment is legally equivalent to a contract of employment for an indefinite period, if the two parties previously entered into an employment contract for a specified period and later into successive periods unless the interval between the termination of the previous and the following contract did not exceed 1 month. Similar effects were foreseen in cases of renewing fixed-term contracts – an extension of such a contract is in fact regarded as the conclusion of the next contract. In this way, the legislature sought to eliminate the rather common practice of hiring workers purely the basis of fixed-term contracts. Entering into such as agreement for the third time results in the conclusion of an indefinite work agreement, unless the interval between any of the three contracts is greater than 1 month. The provision excludes fixed-term contracts entered into in order to replace an employee who has an excused absence and or to render occasional, seasonal or cyclical work.

In order to introduce more flexible measures during the economic crisis, the Act of 1 July 2009 suspended the application of Article 25^1 of the Labour Code. Fixed-term contracts entered into after the entry into force of the Act, from the 22 August 2009, as well as to contracts concluded before that date, which continue to function during the entry into force of the Anti-Crisis Act, Article 25^1 of the Labour Code does not apply. Article 13 of the Act of 1 July 2009 however does (Article 35 paragraph 1 paragraph 2). This provision provides that the period of employment under a contract of employment for a specified period, and the total period of employment on the basis of successive fixed-term employment between the same parties of the employment relationship may not exceed 24 months. A further contract entered into within 3 months after the termination or expiration of the previous fixed-term contract, is considered to be a fixed-term contract. The scope of the application of Article 13 paragraph 1 excludes fixed-term contracts, when their expiration date falls after 31 December 2011.

Article 13 of the Anti-Crisis Act, in contrast to the previously discussed economic standstill concepts, applies to all businesses within the meaning of the Act on freedom of economic activity, and not only to those remaining

[11] The Act of 2 February 1996 amending the Law of the Labour Code and certain other laws (Journal of Laws, no. 24, item 110, as amended).

in temporary financial difficulties. This solution should be assessed very positively. It will facilitate employers to regulate the level of employment based on fixed-term employment contracts, which in times of economic crisis are particularly attractive to be entered into as they do not restrict the employer to the extent of employment contract of indefinite duration.

It should be noted that the maximum time limit placed on a contract or a fixed-term contract should be calculated on the basis of Article 300 Labour Code, based on the provisions of the Civil Code.[12] The length of the statutory period of 24 months can therefore be different according to whether the employee has one agreement covering the entire period indicated, or several shorter contracts. In the first case under Article 112 of the L.C., the continuous 24 month period expires at the end of the year in which the name or date corresponds to the initial day of the period. If, however, during the anti-crisis period several fixed-term contracts have their length calculated on the basis of Article 114 of the Labour Code, which provides that if the date is marked in months or years, and the continuity of the period is not required, the month counts as thirty days and the year as 365 days. Thus, the maximum period of employment for the duration of the anti-crisis legislation may in fact be either 730 days (2x365) or 720 days (24x30), or may be derived from identified solutions.

The doctrine expressed the view according to which the calculation of the 24-month duration of the contract (s) for a fixed-term, in transition to another employer under Article 23^1 of the L.C., should not be considered as fixed-term contracts (or part of the duration of these agreements) concluded by the previous employer to the date of transition to the workplace of another employer.[13] That view cannot be accepted. Article 23^1 of the Labour Code assumes constancy of the legal situation of the employee after the transition. Calculating again the 24-month permissible limit of the duration of the contract term is inconsistent. It should be noted that the employee taken over by the new employer continues the employment relationship under the same contract and there is no legislation which would allow the period specified in Article 13 of the Anti-Crisis Act to calculate the term from the beginning. Thus, it should be considered that passing from one employer to another does not affect the method of calculating the 24-month period, the maximum one can enter into as a fixed-term contract under the Anti-Crisis Act.[14]

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[12] K.W. Baran, *Umowa na czas określony w ustawie o łagodzeniu skutków kryzysu ekonomicznego dla pracowników i przedsiębiorców* [The Fixed-Term Employment Contract as Mitigation During an Economic Crisis for both Workers and Entrepreneurs], Monitor Prawa Pracy 2009, no. 9, p. 456.

[13] *Ibidem*.

[14] Further: A.M. Świątkowski, *op. cit.*, p. 56–57.

The permissible period run of the fixed-term contracts is calculated from the beginning, as long as the successive fixed-term contracts are at least 3 months apart. One can not agree with the sentiment that the 24-month period may also be interrupted by the conclusion of "agreements in the sequence of another type of employment contract (e.g. for a contract of carrying out specific work) between the same parties"[15] . Article 13 paragraph 2 the Anti-Crisis Act defines the concept of another fixed-term contract as an agreement concluded before the expiry of 3 months from termination or expiration of the previous fixed-term contract. This definition makes the contract be treated as a successive one solely based on the absence of a specified time. The legislation does not mention that the sequence of successive contracts should only consist of non-fixed term contracts. An interruption to the 24-month period does not occur, even if the parties enter into another agreement in the interim period of the fixed-term contracts, if the interim period is not at least 3 months.

Finally, the question must be asked when one should expect the starting point of a 24-month maximum period in which the parties, in accordance with the Act of July 1, 2009, may be related to a contract of indefinite duration. There are two possible solutions. According to a first the period begins on the day the fixed-term contract is entered into on the date of entry into force of the Anti-Crisis Act.[16] However, in compliance with the second view, this period must be counted from the Anti-Crisis Act date only.[17] The literal interpretation of Article 13 supports the first view. One cannot agree with this argument, as the retrospect principle of the law supports the former view. It should be noted however that the principle of *lex retro non agit* is not mandatory, and legislation often breaks with it. However, one can not hide the fact that the solution adopted by the legislature may have the effect that some of the contracts at the time of entry into force of the Anti-Crisis Act will violate the 24-month period of employment under fixed-term contracts. This shows a lack of integrity of the legislature that was unable to foresee how to resolve such situations.

At this point the discussion concerning the exceeding of the 24-month period of fixed-term employment contracts must be raised. Although the law prohibits fixed-term contracts, which would exceed the total period of 24 months, however the law, does not lay down penalties for such breaches.

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15 K. W. Baran, *op. cit.*, p. 456.

16 Ł. Guza, *Pakiet antykryzysowy: Zostało 4 dni na ograniczenie praw pracowników* [Anti-Crisis Package: Four Days Left to Limit the Rights of Workers], Gazeta Prawna, 18 August 2009, p. 6.

17 Ł. Guza, *op. cit.*, p. 6.

The doctrine proposed various effects for breaching the limits in Article 13 of the Anti-Crisis Act. It was pointed out that the conclusion of a fixed-term contract, whose length exceeds the 24-month period may be regarded as an act contrary to law or intended to circumvent it (Article 58 Civil Code in conjunction with Article 300 of the Labour Code), and should be settled through the application of Article 25^1 as to whether the effect of transforming a fixed-term contracts into a non-fixed term contract. First, it should be noted that Article 13 paragraph 1 speaks not of "the period of the contract" but of the "period of employment." Thus, the mere conclusion of the contract(s) for a fixed-term, which will exceed 24 months are not yet analyzed as a breach of the regulations. Remaining with the employee in an employment relationship for more than the permitted period should be regarded as contrary to Article 13. It appears there is no basis for the analysis of the Act to establish that a breach of the 24-month period, although contrary to the provisions of the Act, is associated with a specific sanction for the employer. In particular, it is difficult to find grounds for considering that beyond that time limit a fixed-term contract is converted into a contract of indefinite duration. It is therefore considered that the present legal Act on mitigating the effects of economic crisis on workers and businesses does not provide penalties for the employment of workers under fixed-term contracts for a period longer than 24 months in terms of the Article 13 of the Act. However, actions undertaken that are contrary to the regulation will certainly be a violation of labour laws and thus would constitute the basis for an intervention by the state labour inspection.[18]

Despite many shortcomings, the new regulation concerning fixed-term contract employment can nonetheless be viewed in positive light. The possibility of a much larger number of fixed-term contracts than was previously acceptable is a great convenience for employers and should be judged as a good step towards the liberalisation of labour relations. This form of an employment relationship allows to adjust production levels to actual needs that are often susceptible to change at short period. At the same time the introduction of a 24-month period, specifying the maximum length of fixed-term contracts between the same parties to the employment relationship should limit the replacement of permanent contracts in future contracts.

[18] M. Nałecz, *Ustawa o łagodzeniu skutków kryzysu ekonomicznego dla pracowników i przedsiębiorców* [Commentary to the Law on Mitigating the Effects of Economic Crisis on Workers and Entrepreneurs], [in:] *Kodeks pracy. Komentarz*, ed. by W. Muszalski, Warszawa 2009.

Conclusion

The Act of 01.07.2009 may, be placed in the elite group of acts passed by the state, which led to a permanent change in the perception that labour law is a branch of law primarily protecting workers' rights. Enabling social partners to conclude agreements on the transitional legislative reduction of working time standards, and even the announcement of an economic standstill are milestones on the road to liberalisation of labour law. Despite the working hour and remuneration changes in legislation, there remain regulations, which restore to the parties in individual employment relationships a limited in time freedom to enter into impermanent employment contracts.

The threat by the economic crisis, which fortunately did not develop in Poland to the same extent as it did in other more industrialized countries, has forced the legislature to change its previously formed traditional view of the role of the labour law of 35 years ago, and the ways such laws have been applied. The mechanically applied, complete unilateral powers made dependent on the legal relationship belonging to the branch of labour law, are now standing in the way of successfully executing today's much needed flexible employment model. The challenge now for the authorities of industrialized countries is to enable workers to adapt to the changing demands of market economy. Which in turn is assumed to allow employers more freedom than is currently governed by existing labour laws concerning the employment and the termination of workers. The state and its authorities are responsible for carrying out a rational employment policy, and are having difficulties in introducing in a relatively quick time frame workers to the labour market, with whom the employers have terminated the contracts of employment, The episodic anti-crisis legislation thus, contributes to the protective function of labour law. Critical to the common good view point is to raise awareness by the social partners of the solidarity of all people, workers and employers, who are making a living. From this perspective, extending the periods in which fixed term contracts may be entered into without legal impediments, allowing social partners to decide on the introduction of economic standstill if required, during in which employers and state assistance provide aid to those employees who are released from their job responsibilities assuring them the minimum livelihood as well as the guarantee of maintaining their jobs, should be accepted and applauded. Reinforcing the Act of 01.07.2009, which was limited in time in terms of its scope of application, and introducing permanent solutions tested by the legal provisions of the Act during the post-crisis period into the Labour Code, would result in a third attempt to structurally reform the current labour relations in democratic Poland.

Abstract
Labour law in the face of economic crisis

In order to cope with the economic crisis, the Polish Anti-Crisis Labour Act of 2009, temporarily relaxed the rigid labour statutes, introduced over thirty years ago by the Labour Code. The Anti-Crisis Labour Act introduced a new concept of the economic standstill. It allowed employers to temporarily suspend employment contracts without terminating them. The new Act also enabled employers to enter into temporary employment contracts regardless of the former law established by Art. 25 of the Labour Code. This law required employers, as a matter of principle, to mostly enter into non-fixed employment contracts with their employees. Despite the last economic crisis had little impact on the Polish economy, the Polish Anti-Crisis Labour Act gave for the first time a real chance for the Labour Code to have its over-protective regulations liberalized. By facing a seeming economic crisis, the Polish labour law has become more flexible.

Key words: economic standstill, fixed term contract, liberalization of overprotective employment relationships, Poland

Streszczenie
Prawo pracy w obliczy kryzysu ekonomicznego

Aby poradzić sobie z ostatnim kryzysem gospodarczym, polska ustawa z dnia 1 lipca 2009 r. o łagodzeniu skutków kryzysu ekonomicznego dla pracowników i przedsiębiorców tymczasowo złagodziła sztywne przepisy dotyczące prawa pracy, wprowadzone ponad trzydzieści lat temu przez kodeks pracy. Ustawa antykryzysowa wprowadziła nową koncepcję przestoju ekonomicznego i umożliwiła pracodawcom tymczasowe zawieszenie umów o pracę bez ich wypowiedzenia. Nowa ustawa umożliwiła również pracodawcom zawieranie umów na czas określony bez względu na wcześniejsze przepisy ustanowione w art. 25 kodeksu pracy, który wymagał od pracodawców zasadniczo zawarcia z pracownikami umów na czas nieokreślony. Mimo że kryzys ekonomiczny miał niewielki wpływ na polską gospodarkę, polska ustawa o przeciwdziałaniu kryzysowi stanowiła po raz pierwszy realną szansę na liberalizację przepisów w zakresie nadmiernej ochrony pracowników. Stojąc w obliczu pozornego kryzysu gospodarczego, polskie prawo pracy stało się bardziej elastyczne.

Słowa kluczowe: przestój gospodarczy, umowa na czas określony, liberalizacja nadopiekuńczych stosunków pracy, Polska