



## Employment Law Newsletter

Q1 2017

### Termination of the employment contract due to reasons that will occur in the future

In its judgment of 11 August 2016 (II PK 246/15), the Supreme Court ruled that serving a termination notice due to organizational changes, downsizing, liquidation of a job position etc. does not have to coincide in time with the occurrence of such event. The reason for the termination is real not only if it exists at the time of serving the termination notice, but also if it will occur in the near future (e.g. after the expiry of the notice period).

### New regulations on retirement and the disability pension

The Act of 16 November 2016 amending the Act on pensions from the Social Security Fund and certain other acts will enter into force on 1 October 2017. The Act lowers the retirement age to 60 years for women and 65 years for men. It also liquidates the institution of “partial retirement” which will no longer be necessary in the new legal framework.

### CJEU judgment - prohibition on wearing an Islamic headscarf

In its ruling of 14 March 2017 (C 157/15), the Court of Justice of the European Union stated that the prohibition on wearing an Islamic headscarf which arises from an internal rule of a private undertaking prohibiting the visible wearing of any political, philosophical or religious sign in the workplace, does not constitute direct discrimination based on religion or belief. It was indicated that the internal rule at issue referred to wearing any visible signs of political, philosophical or religious beliefs and therefore covers any manifestation of such beliefs without distinction.

It was also emphasized that such an internal rule of a private undertaking may constitute indirect discrimination if it is established that the apparently neutral obligation it imposes results, in fact, in persons adhering to a particular religion or belief being put at a particular disadvantage. However, in such case, the rule may be objectively justified by a legitimate aim, such as an employer’s pursuit of a policy of political, philosophical and religious neutrality (in its relations with its customers), and the means of achieving that aim are appropriate and necessary.

### Territorial jurisdiction in cases concerning claims of temporary workers

In its ruling of 22 March 2017 (P 121/15), the Constitutional Tribunal declared Article 24 of the Act on the employment of temporary workers to be incompliant with the Constitution insofar as the provision makes it impossible to bring an action before a court of competent jurisdiction over the place of work. Pursuant to that provision disputes

*This information was prepared to advise the Firm's Clients of selected important changes in Polish law and does not represent a legal advice on a specific situation of any Client and should not be treated by Clients as such. Should you have any questions concerning the legal matters outlined above as they may apply to your business in Poland, please contact Mr. Roch Pałubicki (roch.palubicki@skslegal.pl) or the partner in charge of your account.*





between the temporary worker and the temporary work agency were to be resolved by the court competent for the registered office of the temporary work agency, which significantly impeded temporary workers from pursuing claims.



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