

Dear Readers,

We are excited to bring you the latest edition of *HR Perspectives*, packed with insights and guidance on key HR topics. In this issue, we delve into:

- a) **The Ban on Wearing Religious Symbols:** The CJEU has provided clarity on the legality of employers' internal regulations prohibiting the visible display of worldview or religious beliefs in the workplace. We explore the circumstances under which such rules can be implemented and the considerations employers must prioritize.
- b) **The State Labor Inspectorate's Inspection Plans for 2024:** they will focus on specific issues concerning parental entitlements, remote work, bridging pensions, and workplace accidents.
- c) **Wage Negotiations and Wage Pressure from employees and trade unions:** a few words of advice on how to manage inflationary increases, union negotiations, and excessive wage demands.

Check out our calendar of upcoming PCS | Littler events to stay ahead of the curve!

We hope you enjoy this edition of HR Perspectives!

Robert Stępień
Agnieszka Nicińska-Chudy



CJEU Rules on Banning Religious Symbols in the Workplace

Author: **Mariusz Maksis**, advocate, lawyer, mariusz.maksis@pcslegal.pl

The Court of Justice of the EU has made an important judgment regarding the ban on wearing religious symbols by public administration employees (judgment of 28 November 2023, ref. no. C-148/22).

The CJEU established that prohibiting administrative staff from wearing visible symbols of worldview or religious beliefs in the workplace can be justified if it aims to maintain a completely neutral administrative environment. This prohibition must be appropriate, necessary, and proportionate to that aim and various rights and interests at stake. Therefore, the Court takes the view that such a prohibition does not, in principle, contravene EU rules and as such may be applied.

Can a general ban on wearing religious symbols be implemented in Poland?

From a legal standpoint, such a ban is feasible. However, it is crucial to follow the CJEU's guidelines. If the goal of implementing such a ban is to uphold the principle of neutrality in public administration, its introduction cannot be deemed discriminatory based on religion or belief.

It is essential to remember that maintaining a fully neutral administrative environment demands consistency. Thus, the prohibition must be absolute, prohibiting any visible expressions of personal beliefs, particularly worldview or religious symbols. This implies that the ban should apply to all forms of manifestation of worldview or religious symbols, regardless of their perceived impact or visibility (including, for instance, religious jewellery).

Thus, a ban on the wearing of religious symbols is permissible provided that:

- a) It applies to all employees;
- b) It applies to all forms of manifestation of a worldview, including all religions and beliefs;
- c) It is enacted in pursuit of a legitimate employer's objective;
- d) It is legitimately incorporated into the applicable sources of labour law (e.g., regulations issued in compliance with the rules in force in the relevant office).

Can private employers introduce the ban as well?

Although the ruling does not explicitly address the applicability of such a ban to private employers, we believe that the CJEU's reasoning for upholding the ban in the public sector could also apply to private companies. If their employment regulations contain uniform provisions applicable to all employees and the employer genuinely adheres to a policy of neutrality, it would be difficult to accuse them of discrimination.

State Labor Inspectorate Inspections in 2024

Author: **Julita Kołodziejska**, trainee attorney-at-law, lawyer, julita.kolodziejska@pcslegal.pl

The State Labor Inspectorate (PIP) has unveiled its action plan for 2024, outlining a comprehensive program of 60,000 focused on the following key areas:

- **Amendments to the Labor Code 2023:** The PIP will prioritize inspections related to the new entitlements introduced by the latest Labor Code amendments, particularly those concerning new parenthood-related entitlements, employment relationships, and remote work arrangements.
- **Bridging pensions:** The PIP intends to continue inspecting the list of occupations classified as involving special working conditions or special nature of work, and will also scrutinize the records of employees performing such duties.
- **Circumstances and causes of workplace accidents: The PIP will maintain its focus on investigating fatal, serious, and mass workplace accidents.**
- **Employee complaints:** The PIP will consistently address complaints filed by employees, particularly those related to late wage payments or underpayment.
- **Company Social Fund;** and
- **Working time and annual leave in local government units.**

Managing Rising Wage Expectations: How to Navigate Wage Negotiations with Employees and Trade Unions

Author: **Agnieszka Nicińska-Chudy**, attorney-at-law, senior lawyer, agnieszka.nicinska-chudy@pcslegal.pl

The end of the year is typically a time when employers are either granting salary increases to their employees or entering into negotiations with trade unions to discuss wage increases for the coming year. However, employers are increasingly facing exorbitant pay rise demands from both employees and trade unions. These demands can reach up to a few tens of percentage points, or even double the current salary. If the employer does not comply with these demands, trade unions threaten to initiate industrial disputes and employees consider resigning from their jobs.

Does the Employer Have to Increase Salaries?

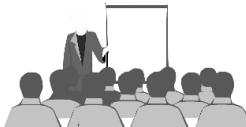
The answer to this question depends on the employer's internal regulations. If there are provisions for annual inflationary increases in the remuneration regulations or other internal policies, employers are bound to follow these regulations, as long as these regulations are not terminated (e.g. by the employer). If there are no such regulations, employers have complete discretion over their wage increase policy. However, this does not preclude employees or trade unions from making wage increase demands through industrial disputes. Notably, the mere mention of annual pay increases in internal company regulations does not automatically create a legal obligation to grant such increases. Employers should carefully review their existing regulations to ensure they understand their obligations. It may be the case that they have only committed to conducting annual wage increase negotiations with trade unions or making non-binding unilateral salary reviews.

Are Excessive Wage Demands Justifiable in Industrial Disputes?

We believe that exorbitant demands that are demonstrably impossible to fulfil because of organizational and financial reasons, cannot be the basis for an industrial dispute. This is because raising such demands can be considered an abuse of the law. Trade union

representatives are often aware that the employer cannot meet their demands, yet they make such demands to initiate an industrial dispute procedure and pave the way for a strike. However, striking over demands that are impossible to fulfil or would threaten the employer's continued existence is not permissible.

Here is a list of upcoming events which we hope you will be able to attend.



Let's talk about money: Introduction of corporate benefit schemes in Poland. Good practices and traps

Date: 11th January 2024, 11:00-11:45 a.m., online.
Speakers: Sandra Szybak-Bizacka, Sławomir Paruch.
Registration form: [here](#).

Springboard to ESG: Practical Guidelines for Reporting Standards (ESRS): CSR, Diversity and Inclusivity (S1)

Date: 15th January 2024, 11:00-11:45 a.m., online.
Speakers: Marcin Szlasa-Rokicki, Mateusz Krajewski.
Registration form: [here](#).

On Unions with Unions: Trade Union Size Verification

Date: 17th January 2024, 11:00-11:45 a.m., online.
Speakers: Sławomir Paruch, Robert Stępień, Michał Bodziony.
Registration form: [here](#).



Marcin Sanetra elevated to Partner at PCS Paruch Chruściel Schiffter Stępień Kanclerz | Littler

Marcin puts his transatlantic experience and dual qualification to good use in his day-to-day work at the firm, where he provides comprehensive services to US and international companies and groups, while also offering and coordinating HR law services to businesses in Poland and other CEE countries. Marcin is also dedicated to fostering and deepening international collaboration between the PCS | Littler team and lawyers from other Littler offices across the United States and around the world. Read more: [here](#).