THE SPECIFITY OF THE JUVENILE EMPLOYEES EMPLOYMENT UNDER POLISH LABOR LAW

ŠPECIFIKÁ ZAMESTNÁVANIA MLADISTVÝCH PODĽA POĽSKÉHO PRACOVNÉHO PRÁVA

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ABSTRACT

Juveniles, i.e. persons who are currently between 16 and 18 years old, form a specific group of employees[1]. The specifics in this case is mainly identified with broadly defined protective function and manifests in number of specific aspects, which essentially will be the subject of this consideration. The aim of proposed study is normative synthetic analysis of laws in force and it contains reference to empirical studies carried out on the territory of the Republic of Poland by the National Labour Inspectorate.

ABSTRAKT

Mladiství, t.j. osoby, ktoré majú vek medzi 16 a 18 rokov, sú špecifickou skupinou zamestnancov. Špecifiká tejto skupiny sú dané široko koncipovanou ochrannou funkciou, ktorá prezentovaná v množstve špecifických aspektoch, ktorých posúdenie je predmetom tohto príspevku.

I. THE SPECIFICITY ACCOMPANYING JUVENILE EMPLOYEES EMPLOYMENT.

The Labor Code indicates two entities of the employment relationship, i.e. an employee and an employer. Juveniles are therefore group that after fulfilling certain conditions may be considered as employees[2]. That means that filling the age criterion alone in the case of a designated group is not sufficient, to use the regulation provided in the ninth section of the Labor Code. These provisions, both present ones, as well as the ones presented in one of the first national legislation devoted to similar issue[3], contain specific concepts that are at the same time, one of the key examples of the protective function of the labor law. However, it should be noted that this function in this aspect is also an example of the differentiation of employees due to the young age. Except of the age in case of juveniles the legislator stipulates also that this requirement will be the fulfillment of additional conditions, namely the completion of education at least at the level of junior high school and confirmation by doctor that work allowed to this group will not be detrimental to their health. The first condition does not have,

[1] In accordance with the Act from 19.3.2009, amending the law on the education system and the change of some other acts (Journal of Laws No. 56, item. 458), which shall enter into force on the 1.9.2018, the juvenile will be a person who is 15 years old, but does not exceed 18 years old.

[2] According to the Supreme Court, the age constitutes criterion, according to which the law makes the right to grant the employee factor - see verdict of 22.11.1979, III PZ 7/79, OSNCP 1980, z.4, p.83

[3] Act from 2.7.1924 r., subject matter of work by juveniles and women (Journal of Laws No 65, item 636 with further changes) – not obligatory

however, absolute nature, since the national rules permit its liberalization.[4] The second condition should be considered as a circumstance of stable and individual character, because every of required medical certificates shall be individualized. Therefore, in my opinion we should emphasize that in this case, it seems that we can point out even double individualization: relating to personal aspect, because medical certificate stating that there is no impediment to work is issued in this case, to a specific person in analyzed age range, and relating to the acceptance of chosen work, marked and permitted by the employment regulations. The solution adopted by the Polish legislator in practice can, however, cause different effects. The permission refusal to juvenile to perform declared work does not deprive automatically others from this age group to have this possibility.

Indicated solution is therefore one of the more important manifestations of the protective function of labor law, focusing in this case, on comprehending this group with the set of rules aimed at correcting malicious start their working life. Worth to emphasize is that, in case of juvenile preliminary procedure regarding their employment is based on the possibilities which are contained in the Article 22 § 3 of the Labor Code. This provision applies to granting legal capacity in terms of implementation of the juvenile employees' rights and obligations. According to it, reaching the age of 16 allows them to independent creation employment relationship, as well as performing legal actions in its range. According to Polish legal order juvenile, as a general rule, has limited capacity to perform acts in law, however, their privilege in respect of employment is associated with independent creating employment relationship. Legal relationship created in such way, may be however, considered valid if aforementioned conditions are also fulfilled.

The legislator as further expression of special protective function guaranteed to this group has included reservation that employment relationship created in that way can be considered as legitimate only if it does not oppose the right of juvenile, otherwise, it must be dissolved. Please note that only at this stage, there is permission to third-party interference, i.e. legal representative of the juvenile and the Labor Court/Tribunal, which in the event of stating adverse impact of the work decides about terminating such employment. Due to the objective of pointed acts, it seems that activities heading to cessation such employment relationship should be proceeded immediately. Employing of juveniles, except of meeting preliminary indications, should also take into account the basic tasks stated for this group of people. One of them is already indirectly indicated restriction associated with the achieving of specific educational background, understood - as it is stressed in the literature of the subject – as protection for young man social development. As a result, in case of not keeping that obligation by juvenile may even release employer from the obligation to its employment[5]. Currently, in accordance with the education law, the juvenile trying for possibility of employment, should complete at least junior high school. This level of education is considered to be primary, which does not mean that, in case of juvenile employment the employer will not have additional obligations with respect to its further education. First of all, in accordance with the Article 197 of the Labor Code, education for elementary school and junior high school is compulsory until the age of 18, but if the juvenile wants to reach additional degrees of education within the framework of secondary school or other extramural forms of education, the employer is obliged to allow him/her to do it.

[4] The Ordinance of the Minister of labour and social policy of 5.12.2002 on cases in which exceptionally is permitted employing juveniles who have not completed high school, people who are not 16 years old, who have completed junior high school, and pe ople who are not 16 years old, that have not completed junior high school (Journal of Laws No. 214, item 1808 with changes), see. on this subject: A. Sobczyk, Prawo Pracy w świetle Konstytucji RP, volume II, London 2013, p. 269-270.

[5] More: *A. Sobczyk*, Prawo pracy w świetle Konstytucji RP, volume I, Warsaw 2013, p. 209.

From the pointed legal structure we should therefore carry position repeatedly raised by the doctrine according to which the work performed by juveniles shall not be a priority, and contrary - should be done through education, which should be the main aim[6].Therefore, its performance shall be considered as another aspect of legitimate differentiation of this employment group, which from the perspective of another employees creates the protective nature form. Confirmation of this view seems to be used by the legislator terminology of the ninth chapter of the Labor Code. Namely, in the part dedicated to the rules of juvenile education the legislator for the first time uses the term "juvenile employee", and not, as in the rest of the rules – only "juvenile". The legislator thus, once again fulfills the duty toward juvenile employee, namely to ensure the priority of education over the work, which manifestation is employer's obligation, consisting in completion of a studying period to working time, even if it is beyond the working hours. That duty is executed already at the early stage of employing, because entering into the agreement prepare for vocational training, the employer among the *essentialia negotii* must also take into consideration its mandatory way of theoretical learning method, to which the juvenile employee is obliged *ex lege*.

II. Employment of juveniles in the light of International Labour Organisation Convention No 138

The dynamics of changes in the field of determining the lowest age of admission to employment [7] is systematized by Convention No. 138 passed on 26 June 1973, which has become one of the basis of the labour law concerning, among the other things the minimum age admitting to employment[8] . In the preamble were cited earlier International Labour Organisation (ILO) documents from the years 1919-1972[9] containing provisions for the establishment of minimum age for work and need to indicate the single model in this regard. The goal, which prevailed during the ILO work, was to establish single age limit, which cannot be lowered because of the need to protect young person. The childhood is a period of development, acquisition of skills, it is also time in which there is room for carelessness, and taking up paid work higly limits these possibilities. Therefore, it was indicated in the Article 1 of the Convention, that for the authorities of the states imposes the obligation to keep policy heading for total and effective abolition of the acceptability of child labour. Also need to determine the age allowing to admit juveniles to work was indicated, so that this possibility has not remained in conflict with their normal development, health, safety and morality[10] . Therefore it was decided, that the minimum age for work will not be lower than this at which compulsory education ends, and in any event not less than the age of fifteen years old. Only in developing countries, the provisions of the Convention allow to establish the age of 14 years old as the minimum age at which the labour could be taken up, with the reservation that this is provision has only temporar nature, that only enables to implement provisions to States concerned. The document induced countries included in the Convention, that in a statement attached to the

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6 For this subject, among the others: *M. ŚWIĘCICKI*, Instytucje polskiego prawa pracy w latach 1918–1939, Warsaw 1960, p. 195–196; *G. GOŹDZIEWICZ*, Problemy statusu prawnego młodocianych pracowników w Polsce, [in:] Prawo pracy a wyzwania XXI wieku. Księga Jubileuszowa prof. *T. Zielińskiego*, Warsaw 2002, p. 177.

7 The Conventions and recommendations of the International Labour Organization, volume II, Warsaw 1996, p. 861 et seq., ratified by Poland on 22 March 1978, the Convention No 138 ILO (Dz.U. 1978 (Journal of Laws)., No 12, item. 53 – attachement). This Convention has been supplemented by Recommendation No. 146 concerning minimum age for admission to employment (conventions and recommendations..., volume II, op. cit., p. 867 et seq.).

8 I.Ortylewska , Child as an employee, „Praca i Zabezpieczenie Społeczne", Warsaw 2007, no.11, p.13 2011, p. 55-67.

9 More on this subject: M. Bosak, an outline of the evolution of protection of juvenile employees in selected documents of the International Labour Organization, [in:] State & law in the age of globalisation, s. Sagan (ed.), Rzeszów

10 This problem has been developed and regulated in details in later Convention No 182 ILO concerning prohibition and immediate action for the elimination of the worst forms of children labour. (Dz.U. 2001(Journal of Laws), No 123, item 1364.)

ratification they determined the lowest age of admission to employment within the framework of the employment or self-employment in area of the economic activity on the territory of given country [11]. It also means that the Convention No 138 included all forms of economic activity, irrespectivly of the legal basis and type of performed work[12] . Therefore, the member states which have decided to ratify the document indicated the age of 14, 15 and 16 years old, as the one which is minimum to allowe for employment of juveniles in their country. Of course, on the basis of the Convention No 138 possibility of employing juveniles under 18 years old in the case of works which are likely to endanger health and proper development is excluded, unless, exceptionally its performing is related to school curriculum and in respect of persons over 16 years old. The Convention also specifies the conditions allowing for involvement of persons from 13 to 15 years old to perform light works. The document did not contain definition of light work, and determine only that it could be any job that will not harm the health, development and education, unless the person concerned has been subject to compulsory education provide by school. And the duty to classify light works is the responsibility of each member state. In article 7 reserved that engaging with light works shall not hamper young man using skills and knowledge already achieved. In the initial stage of effectivness the Convention also contained certain departure in relation to developing countries, by allowing them to lower the age for employment for one year earlier. This means that employment with light works in some parts of the world was allowed from 14 or 13, and exceptionally even from the age of 12. The Convention also related to the problem of employment of children and juveniles with artistic activity, in case they do not have yet reached the age for taking up such work. To that end, at the request of the artistic events organizers, member states were obliged to establish rules providing obligation of issuing individual authorisations for such work. The authorisation should contain precise indication of time and conditions of performing such employment, having in regard the welfare of children and juveniles, although the text of the Convention does not specify any additional clarifications in this regard. The International Labour Organization since the very beginning of its activities clearly indicates need for elimination of work performed by children. According to studies revealed by the ILO, child labour, particularly in developing countries, is too frequent phenomenon. From the studies published by Press Release[13] especially in developing countries work 250 million children between 5-14 years old, and about 120 million work full-time, and the others, combine work with school obligation. The report also shows that almost 70% of working children perform dangerous activities, and 50-60 million of them aged 5-11, work in conditions which are already - due to its specificity- are danger. To eliminate the phenomenon of work performer by children and, in particular, to total and immediate elimination of the worst forms of children labour contribute provisions of aforementioned Convention No. 182 and Recommendation No. 190 concerning prohibition and immediate elimination of the worst forms of children labour[14] .

[11] More on this topic: A.M. Świątkowski, Międzynarodowe prawo pracy, volume I, Miedzynarodowe publiczne prawo pracy – standardy międzynarodowe, vol.II, Warsaw 2008r., p. 137 et seq. In addition, at this point it is worth to indicate the provisions contained in Recommendation No. 146 of the ILO, which clearly shows that the minimum age for employment should be aligned in relation to all areas and should not be less than 16 years old.

[12] More on this topic: I. Ortylewska, op.cit., p. 13.

[13] The ILO Report, ILO/99/21-23.

[14] The Convention No. 182 and the Recommendation No. 190 have been accepted by the General Conference of the ILO during the 87 session, on 17 June 1999. It is worth to point out that in the Convention No 182 were first listed the worst forms of work performed by children and prohibition of enforced or compulsory recruitment children into the army. Whereas the Recommendation No 190 defines hazardous work, recognizing that each job endangeres children to physical, psychological and sexual abuses; work underground, under water, at altitude, in closed areas, with dangerous machinery, equipment and tools, works associated with heavy loads; in an unhealthy environment, and etery work carried out in difficult conditions.

The scope of the Convention covers all persons under 18 years old, which, in accordance with the wording of article 1, shall be deemed to be children. Whereas the Recommendation No 190 induces member states that have chosen to ratify the Convention No 182, to acknowledge the practices related to the violation of the provisions contained in its content for crimes of criminal nature. It is worth to mentione that the Convention No 182 was serious supplement for legal regulations concerning elimination of children labour[15] , and its rank was also empasized by enthusiastic reception, indicating its universal shape and nature of issues contained in it.

III. JUVENILES PROTECTION DUE TO EMPLOYMENT RELATIONSHIP

Analyzing issues related to the criterion of employees distinction in the context of juveniles employment[16], there is no way to skip the provisions relating to the health protection of this group of employees. Except of the general rules guaranteed in this range to every employee, juveniles can count on additional rights. Privileging regarding to health protection is integrally associated with age, immaturity and natural processes accompanying development of young organism, as well as lack of experience and shaping psycho-physical processes[17]. Therefore, even after fulfilling numerous selection requirements when the performance of permitted work will be enable to juvenile, this fact does not guarantee its perspective continuation. As a result of periodical tests it may turn out that work allowed earlier with passaging time becomes detrimental to the juvenile's health. Then the doctor conducting examination imposes on the employer obligation to change the nature of work. If such change is not possible, the employer is obliged to dissolve employment relationship immediately. Privileging juveniles in such situation is therefore at the same time, their broad protection, as in the case of designated events they are entitled to compensation in the amount of remuneration for the period of employment notice. The protection of juvenile's health involves not only the benefits, but it also consists numerous prohibitions imposed on this particular group of employees. These include the absolute prohibition to employ juveniles overtime hours and night time. As a general rule it is not allowed to employ them for some kinds of forbidden works, although this prohibition does not have, however, absolute character and its liberalization is connected with the necessity to acquire necessary training aspect in terms of specific vocational preparation. In this case, however, due diligence has to be kept in order to ensure the protection of life, health and morality of juvenile and restrict harmful factors for him to absolute minimum. Juvenile protection, that indirectly describes its legal status, connects with rest possibility ensuring its regeneration. The ninth section of the Labor Code contains separate, more favorable provisions in this respect, both in terms of work breaks related to 24 hours and one week rest due to employee in respect of performing work, as well as longer breaks, arising out from the fact of entering into employment relationship, i.e. holiday vacations. The provisions of chapter V contained in this section are another example of diversification of this group of employees. The issue of vacation destinations due to juveniles is different from the corresponding provisions guaranteed to other employees. The manifestation of privileging is the opportunity

[15] International ratification of the Convention No 182 contributes to development of the campaign within the framework of the international Programme for the Elimination of children labour (IPEC). More on this subject: M.D. Stefańska, The Convention of the International Labour Organization relating to children labour, "The workers ' Service" 2000r., no 1, p.12-13.

[16] The Conventions and recommendations of the International Labour Organization, volume II, Warsaw 1996, p. 861 et seq., ratified by Poland on 22 March 1978, the Convention No 138 ILO (Dz.U. 1978 (Journal of Laws)., No 12, item. 53 – attachement). This Convention has been supplemented by Recommendation No. 146 concerning minimum age for admission to employment (conventions and recommendations..., volume II, op. cit., p. 867 et seq.).

[17] More: I.A.WIELEBA, Szczególna ochrona zdrowia pracowników młodocianych –zagadnienia wybrane, [in:] M.Bosak, Funkcja ochronna prawa pracy a wyzwania współczesności, Warsaw 2014, p. 71-84.

to use so-called *holiday in advance*. More favourable provision on the right to rest is connected with longer period of holiday due to juveniles compared with adults performing work.

IV. STABILIZATION OF EMPLOYMENT GUARANTEED TO JUVENILE EMPLOYEES

Protection in the range of stabilization of created employment relationship, especially nowadays, when the workplace is identified with deficit good fulfills at the same time, distributive function of labor law[18], so important for every employee. The legislator guarantees juveniles right to employment generally in two forms:

1) professional preparation taking place within the framework of the apprenticeship and vocational training to perform a specific work;

2) employment in the so-called ***light-work***.

The first of the above mentioned forms of juveniles employment combines first and foremost educational value along with the ability to use the acquired knowledge in practice. The second has purely earning aim, however, it also shall take place with respect for the general principles associated with employing juvenile employees. Relevant in this case will be to qualify certain work categories as light. Now this obligation encumbers employer, that deciding for employment in this form, has to ensure that the proposed work does not jeopardize life, health, psycho-physical development of juvenile, as well as not impede the fulfillment of education duties. Pointed criteria implemented by the legislator are determining to establish light work, and also constitute fulfillment of Article 3 paragraphs d of the Council Directive 94/33/EC of 22.6.1994 on the protection of young people at work[19].

Due to the different assumptions associated with the employment in the framework of the above form, worth to point out, particularly in the context of this issue, is also protection of created in that way employment relationship. In case of vocational preparation, where the priority is to combine skills with everyday life, the legislator has decided for a specific concept in terms of termination by notice employment relationship with juvenile employee. Content analysis of the provision permitting to dismiss juvenile by providing notice proves that it is closed catalogue. This means that only the presence of the conditions indicated in the Article 196 of the Labor Code allows to interrupt ongoing professional process in the indicated mode.

This circumstances can be generally divided into two groups: first one includes the causes lying on the side of employers, and the other one is on the side of juvenile employees[20]. The causes of the first group are bankruptcy or liquidation of the workplace, as well as reorganization of the work place, as a result of which the employer loses the possibility to employ juveniles. Indicated conditions, particularly relating to the reorganization of the workplace, must be actual, and thus – in case of any doubts – possible to verify. The second group of indicated reasons – the one situated on the side of juvenile employee – also includes two categories of events leading up to the termination of the employment relationship by notice. One of them is culpable by juvenile. I mean here the infringement of performing juvenile's obligations under the contract of employment or the obligation to study. By submitting above content to the analysis, it is worth to notice that the legislator, in order to strengthen the position of juvenile, in case of arising indicated situations points at the fulfillment of two additional conditions leading to a dissolution of the employment relationship. First was implemented directly and is included in the expression "despite the use of educational resources", which means that non-

[18] More: *T.LISZCZ*, Prawo Pracy, Warsaw 2008, s.31.

[19] Official gazette of UE. L 1994, No 216, p. 12; more: *A.M. ŚWIĄTKOWSKI, H. WIERZBIŃSKA*, Kodeks pracy i zabezpieczenia społecznego Unii Europejskiej, Cracow 2011, p. 589.

[20] More: *J. WRATNY*, The Labor Code - Comment, Warsaw 2013, p. 437–439.

compliance with the aforementioned order may result in invalidity of notice in this mode. The second condition comes indirectly from the content of the analyzed provision, namely the legislator formulating content of this circumstance, decided to use plural form. In accordance to which, appearance of occasional behavior proving of not complying obligations arising from contract of employment or training requirement by juvenile cannot result in termination of employment relationship in this mode. Second of the conditions allowing termination of the agreement in order to professional preparation as a employer's initiative is not caused by juvenile. Its vocation seems to be legitimated in case of real statement its uselessness in range, in which professional background takes place. In my opinion, Implementing this circumstance shall also be considered as an example of diversification of juvenile employees, with reservation that its proper implementation must be accompanied by strong employer's objectivity. Therefore, stating by the employer inadequacy must be backed up by specific, possible to verify facts.

V. THE ISSUE OF JUVENILE EMPLOYEES DUE REMUNERATION

By submitting to analysis issues related to employment of juvenile employees, we cannot skip the issue of remuneration for work, as it is after all one of the integral components of each employment relationship. Owing to analyzed subject area we should indicate situation of juveniles employed in order to professional preparation, because toward them specific rules are applied to identify due amount of remuneration[21]. These rules are also specific criteria for differentiation this employee group due to the fact that amount of remuneration depends on two issues, namely, the type of preparation undertaken vocational training, as well as its degree of advance. Detailed remuneration issue for work understand in that way includes the content of the regulation of the Council of Ministers of 28.5.1996 on juveniles vocational preparation and their remuneration[22]. In accordance with it in order to determine due remuneration the legislator pointed out only percentages in relation to the average monthly salary in national economy, using, admittedly, the expression "not less than", respectively 4, 5 and 6% in the case of apprenticeship, and "not less than" 4% in the case of training to perform a specific job. Use of the expression "not less than" gives the real possibility to increase remuneration for juveniles but practical use of this legal construction by employers should be questioned. Therefore, current view expressed by the doctrine according to which so understood remuneration provided for juveniles should be treated as a scholarship, and proposed value referred to as "student rates of payment", not as the payment for work done still seems to be the up – to – date[23]. Therefore, especially in the analyzed context of the protective function of labor law, accuracy of the aforementioned regulation in confrontation with the general provisions concerning remuneration contained in the Labor Code should be considered, as well as constitutionally guaranteed minimum wage relative to juvenile employees[24]. Above–mentioned provisions are therefore an example of differentiation of employees due to the young age, though in this case it is difficult to discern in them legitimate objective, particularly bearing into consideration principle of social justice. As it should (De lege ferenda), we need to refer to the article 346 § 1 of the Individual Project of the Labor Code, which takes into account indicated problem and contains proposition of change current way of determining its amount. In accordance with its content, the Codification Commission of Labor Law proposes that the value of remuneration provided for juveniles taking professional background

[21] See judgement of the Supreme Court from 5.1.11.1975, files reference number: II URN 16/75, non publicised., According to which if a person who employees pupil on the basis of a contract of apprenticeship does not pay, contrary to the rules in force, remuneration for work, this cannot mean for him/her any negative effects in terms of pension rights.

[22] Journal of Laws No 60, item 278 with changes; see also: *A. SOBCZYK*, Prawo pracy…, p. 46–49.

[23] See *T. LISZCZ*, Prawo pracy, Warsaw 2012, p. 453.

[24] See *J. IWULSKI, W. SANETRA*, The Labor Code. Commentary, Warsaw 2011, p. 1013–1014.

shall be not less than 30% of the minimum remuneration for work[25]. Application of such legal construction would be also the adaptation of given provisions of Polish labor law to the content of the European Social Charter from 18.10.1961[26].

VI. Control of the validity of employing juveniles on the territory of the Republic of Poland[27]

The provisions of chapter IX of the Polish Labour Code, as already mentioned, as the primary objective of employment of juvenile employee suggests givingto him/Her possibility to gain professional qualifications. Its implementation, as already mentioned, is done with obeying special rules for physical and mental health protection and special procedures for the protection of employment relationship, of which one party is juvenile. Therefore taking into consideration that juvenile employees due to their degree of maturity and psycho-physical conditions should be subject to special protection, the National Labour Inspectorate treats assessment of compliance with the provisions of their employment as one of the constant elements of the examination procedure. Such control includes activity of all regional labour inspectorates operating on the territory of the Republic of Poland and has to assess state of compliance with the provisions, changes monitoring in this area and identifying possible areas for special surveillance. The aforementioned irregullarities have been established exclusively under the control targeted to assessment of obeying rights of juvenile employees. Labour inspectors have also dislosed number of infringements related to implementation of labour rights related to employing juveniles during the current inspection activities and following to the investigations of staff complaints. In 2012 labour inspectors conducted controls for compliance with legal provisions concerning employing of juvenile employees in 884 employers. Controlled employers employed in total 21 927 employees, including 7 264 women and 3 892 juveniles. Activities carried out by labour inspectors revealed non-compliance with a number of provisions with significant impact on the safety of work performer by the juveniles. Most irregularities consisted in the lack of work time record at prohibited works, and permitted to juveniles only in order for professional preparation. In 2012 inspectors revealed such situation on 40% of employers, so referring to previous control this situation has not significantly improved (in 2010-40% in 2011-39%). Another major problem with significant impact on the health of juvenile employees are inadvertences to develop lists of positions and types of work prohibited and permitted for the purposes of professional accreditation. Lack of such documentation was found in 38% of employers. Another infringement revealed as a result of the inspections turned out to be frequent lack of medical certificate stating that given work does not endanger juvenile's health. In 2012 this issue appeared in 23% of employers. Generally it should be noted that in the area of employment and particular protection of health of juveniles it is mosty noticed either not implemented or incorrect implementation of responsibilities associated with formal issues, and subsequently, negligence with regard to proper preparation of juveniles to work. Statistical analysis of data indicates that indicated irregularities have also relationship with the nature of the activities carried out by employers because they occur most often in industrial processing industry, construction, trade and services. It seems that their main cause was the ignorance of law provisions, inappropriate organization of work, insufficient staffing and lack of qualified legal staff in small traders. The result of

[25] Individual project of the Labor Code has been made available on the website of the Ministry of labor and social policy, http://www.mpips.gov.pl/prawo-pracy/projekty-kodeksow-pracy/ data from 17 June 2014.

[26] Journal of Laws from 1999, No 8, item 67 with further changes.

[27] The information in this part of the article comes from the report entitled: "Employment and safety of work of juvenile employees, " prepared by the National Labour Inspectorate in July 2013. Full text of the report was posted on the official website of the Labour Protection Council at the Parliament of the Republic of Poland: http://rop.sejm.gov.pl/1_0ld/opracowania/pdf/material67.pdf (Download date 7 Feb 2014.)

indicated controls was taking following legal measures: decisions, presentations inncluding conclusions, criminal tickets with fines and motions for punishment issued to labour courts.

VII. CONCLUSION

To sum up, in my opinion, it should be acknowledged that the general position of the juveniles in the Polish labor law is one of the key examples proving the fact justified, but also periodical criterion of staff differentiation due to the young age. That differentiation, what I tried to highlight, is multifaceted protection resulting directly from the content of those provisions. Their analysis shows that the aim should be, on the one hand, to eliminate the phenomenon of "*adultyzm"*, and on the other hand, it is to strengthen position of people, who have contact with professional life for the first time. Therefore, in the context of this protective function of labor law so important will be to correct application of these provisions in practice, as well as supervision of their fair performance, guaranteed by the State what seems to be current need, bearing in mind aforementioned audit results disclosed by The National Labour Inspectorate. Protection and privileging of this group of employees should therefore be treated as responsibility for their proper and comprehensive physical and mental development[28], as well as eliminating against exploitation, fulfilling imposed on the employer direct obligation to ensure juvenile employees care and assistance proving its humanism, as well as the social culture.

KEY WORDS

juvenile workers, juvenile employees, juvenile protection, the protective function of labour law, the Polish Labour Code

KĽÚČOVÉ SLOVÁ

Mladiství zamestnanci, ochrana mladistvých, ochranná funkcia pracovného práva, poľský zákonník práce

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[28] This obligation arises directly from the Article 1 ratified by Poland of ILO Convention No. 138 concerning minimum age for admission to employment, adopted at Geneva on 26 June 1973r., Journal of Laws 1978, no. 12, item 53.

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