

## Civil or “Trash work” Contracts –an Elastic Form of Work or Another Example of a Throwaway Society?

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I would like to discuss the problem of the so-called “trash work contracts” in my country, Poland. I do not aim to give a complete economic or ethical response to such a question. I intend rather to present the problem, its scale and threats, but also its positive aspects, as they are connected with the ever-wider use of these contracts as an alternative to regular working contracts. I would also like to give a personal character to this presentation, since I have experienced this type of contract myself.

According to the most recent data of the World Bank, Poland fulfils the minimum criteria for a high-income economy, even if we should still remember that income in Poland is only one third of the average for those countries<sup>1</sup>. From 2004 to 2014, average economic growth was 4% per year. Over the same period, the rate of unemployment fell from 20% in 2004 to 12% in 2014<sup>2</sup>. Without any qualification, this data could create a false, idyllic picture. But as Robert Kennedy once said about GDP:

It measures everything in short, except that which makes life worthwhile. (...) that Gross National Product counts air pollution and cigarette advertising, and ambulances to clear our highways of carnage. It counts special locks for our doors and the jails for the people who break them. It counts the destruction of the redwood and the loss of our natural wonder in chaotic sprawl. It counts napalm and counts nuclear warheads and armored cars for the police to fight the riots in our cities<sup>3</sup>.

If we were to make a similar statement about Poland, we could say that our GDP includes 2 million young people who have emigrated for work and 21% of working

people who are employed on the basis of particular kinds of “civil contract”.

What do we mean here by a civil contract? First of all, we are talking about particular types: “Order Contracts” and “Specific Task Contracts<sup>4</sup>”. Basically in these types of contract (with some differences) we order some kind of service from another subject e.g. the preparation of a project, or the pruning of the tree in our garden. Thus far, there is no problem with them. The problem begins, however, when employers start using this type of contract for hiring regular, full time employees. Where the duties of the employee have to be performed personally, under supervision, and at a particular time and place chosen by the employer, we are dealing with the type of working relations which should oblige both sides to use a normal working contract, not one of the types of civil contracts we have been describing.

This does not happen because, clearly, from the point of view of the employer this type of contract is more attractive than the normal ones. By using them, in most cases they can avoid paying health insurance and social contributions. Terminating the contract is also much easier, and this can be done without any serious reason or any cost to the employer. However, the most important thing is that such contracts are not subjected to the rules of the Labour Code<sup>5</sup> but of the civil one. This means in practice, that, in the case of accident, loss of work or pregnancy, workers have no protection, nor any right to paid holidays. Of course, we can also identify some arguments in favour of the use of civil contracts: using them, we can combine school with work, allowing young people to gain their first professional experiences, or we can have more than one contract simultaneously. There is also the

most frightening argument - that any work is better than unemployment.

From my personal experience, I can say that both the sides of this argument have some truth. On the one hand, as a young person I could easily and quickly find a part time job, but I also had some typical problems, such as threats from my employer to terminate my contract if I did not want to work on Sundays, or more than 12 hours per day. In my case, most of the work which I did should have been classified as regular employment, so I could see that employers are using these contracts as mere instruments for reducing the cost of personnel.

As a form of irony I would like to quote one of the legal portals for businesses as regards these contracts: "To avoid unpleasant consequences of an erroneous application of civil law contracts you should seek advice from a professional in this field. Proper construction of its contents will minimize the risk of questioning the agreements in the case of an external check<sup>6</sup>". Put simply: the problem is not to do with the work which is performed, but only with how the contract is constructed. Lawyers will be able to help you to bypass the law (i.e. the Labour Code).

The greatest problem with civil contracts is the fact that they are the most commonly used for employing the younger generation who are beginning their independent life. As statistics show: more than 50% of people in 18-26age group, and more than 30% of those aged 26-30, are hired on this basis. In a society that is suffering from a drastically reduced birth rate - 1,3 child per woman of reproductive age - this only make things worse<sup>7</sup>. A simple reason for this is the fact that young people cannot be sure that they will have work tomorrow, so it is much harder for them to decide to have a child (or to take on the risk of borrowing to buy a house).

As a form of conclusion, I would like to quote Pope Francis who has observed that:

Human beings are themselves considered consumer goods to be used and then discarded. We have created a "throw away" culture which is now spreading. It is no longer simply about exploitation and oppression, but something new. Exclusion ultimately has to do with what it means to be a part of the society in which we live; those excluded are no longer society's underside or its fringes or its disenfranchised – they are no longer even a part of it. The excluded are not the "exploited" but the outcast, the "leftovers"». (EG 53)

In my opinion, here the Pope has made a really essential point which applies directly to our subject - we treat other people as a material workforce only, which when broken we can easily replace, aiming to satisfy the false axioms of an economy where the ultimate goal is to maximize profit and minimize costs. As he says in a later passage in the same text:<<The current financial crisis [not necessarily only financial] can make us overlook the fact that it originated in a profound human crisis: the denial of the primacy of the human person!>> (EG 54).

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<sup>6</sup> Monika Kozłowska, "Trash" Contracts - when company can't use them., *Money.pl*, <<http://prawo.money.pl/aktualnosci/okiem-eksperta/artykul/umowy;smieciowe;-kiedy;firma;nie;mozna;ich;stosowac,108,0,1062252.html>> [access 15.03.2015].

<sup>7</sup> To maintain the social balance between young and the elderly you should have birth rate 2.1.

## NOTES

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<sup>1</sup> According to data presented by World Bank, medium GNI per capita (Atlas method, current US\$) for High income states is: 44,479, in the same time for Poland it is: 13,240.

World Bank Data, <<http://data.worldbank.org/income-level/OEC>>, and <[http://data.worldbank.org/country/poland#cp\\_wdi](http://data.worldbank.org/country/poland#cp_wdi)> [access 24.03.2015].

<sup>2</sup> World Bank data, <<http://data.worldbank.org/>> [access 25.03.2015].

<sup>3</sup> Robert Kennedy, *Remarks at the University of Kansas*, March 18, 1968, <<http://www.jfklibrary.org/Research/Research-Aids/Ready-Reference/RFK-Speeches/Remarks-of-Robert-F-Kennedy-at-the-University-of-Kansas-March-18-1968.aspx>> [access 25.03.2015]

<sup>4</sup> The Civil Code of the Republic of Poland art. 734–751 and art. 627-646.

<sup>5</sup> **The Labour Code** is the key legal act regulating relations between employers and employees. It sets out conditions under which work can be carried out in Poland. Polish information and foreign investment agency, *Labour*