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## **Bittersweet Brew: The Socio-Legal Dynamics of Labour in Poland's Culinary Scene**

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## ABSTRACT

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The hotel, restaurant, café, and catering (HoReCa) sector has witnessed remarkable growth, particularly in Europe. However, this growth is accompanied by operational disparities in adhering to Occupational Safety and Health (OSH) regulations within the Polish catering industry.

Rooted in the sociological paradigm of law and legal realism, this research delves into the divergence between Polish, European Union, and international labour laws, and the practical sociological dynamics within Polish catering establishments. Employing qualitative methods such as interviews, observations, and content analysis, our study identifies pressing challenges in OSH and labour regulations adherence. We aim to elucidate the ramifications for service quality and advocate for legislative enhancements.

Our findings underscore that economic considerations often dictate the selective enforcement of standards, leading to legal violations, customer dissatisfaction, and workplace predicaments. This study also reveals the complicity of employees in these situations and the complexity of regulatory overload. It underscores the urgency of comprehensive legislation tailored to the specific needs of the Polish HoReCa sector, encompassing labour law, EU regulations, and international labour law. Furthermore, education, training,

strengthened supervision, and employee involvement are deemed essential to foster compliance and create a safer, more customer-friendly environment.

**Keywords:** HoReCa sector, occupational health and safety (OSH), labour law, legal realism, sociology of law.

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## **Bittersweet Brew: The Socio-Legal Dynamics of Labour in Poland's Culinary Scene**

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### **1. Introduction**

Tourism is among the fastest-growing industries worldwide. Within this realm, the hotel, restaurant, café, and catering (HoReCa) sector stands out, playing a pivotal role in economies across the globe. As per the latest data, Europe has significantly benefited from the burgeoning of this sector. Approximately 10 million individuals, representing 5% of the entire European workforce, are employed within the HoReCa industry. This percentage sees a spike in countries with a vibrant tourism industry, such as Spain, where the figure doubles to 10%<sup>1</sup>.

However, like any industry, the HoReCa sector is not without challenges. It has demonstrated resilience in the face of pandemics, global wars, economic downturns, and a host of other adversities. Its ability to adapt and persevere has further solidified its importance in the contemporary economic scenario<sup>2</sup>.

Central to the HoReCa sector's vast expanse is the catering industry. In Poland, a country with a rich culinary history and tradition, catering has found its niche with an estimated 70,000 catering establishments. These range from establishments that thrive on seasonality to those that maintain year-round operations. Yet, whether seasonal or perennial, the ambiance is a universal determinant of success<sup>3</sup>. Cleanliness, safety and sanitary standards, compliance with labour law norms and ethical employee treatment

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(1) Eurofund, *Representativeness of the European social partner organisations hotels, restaurants and cafe (HORECA) sector*, Publications Office of the European Union, Luxembourg 2018, 11–17; S. Lock, *Restaurants and food services in Europe - Statistics & Facts*, <https://www.statista.com/topics/3966/restaurants-and-food-services-in-europe/> [10 February 2022].

(2) M.-Á. García-Madurga - M.-Á. Esteban-Navarro - T. Morte-Nadal, *CoVid Key Figures and New Challenges in the HoReCa Sector: The Way towards a New Supply-Chain*, in *Sustainability*, 2021, 13, 12.

(3) *Rynek gastronomiczny w Polsce - raport*, M. Kaszuba-Janus (eds.), BROG B2B, 2021, 6–55.

are non-negotiable pillars. A breach in any of these domains can significantly mar the reputation of an establishment, regardless of its stature or history<sup>4</sup>.

Regulations in the HoReCa sector, especially those surrounding food production, service and staff engagement, are stringent. They place paramount importance on health, safety, and workplace well-being. Polish, European Union and international law regulations comprehensively govern these standards, emphasizing their critical role in establishing a conducive atmosphere, order, and hygiene in the workspace<sup>5</sup>. This compliance is especially crucial in establishments like bars and cafes. The regulations encapsulate areas ranging from fire safety, sanitary rules, occupational ergonomics, environmental safety, to corporate social responsibility, establishing a comprehensive framework that safeguards employees, customers, and the establishment at large. All of these areas are aggregated known as occupational safety and health (OSH)<sup>6</sup>.

However, a worrying trend has emerged. The Polish catering market, despite its rapid growth and rising service standards, appears to grapple with operational discrepancies<sup>7</sup>. Allegations of employee mistreatment and consistent violations of health and safety rules are alarming. Disturbing patterns have been observed, which compromise customer safety and the broader OSH standards. It's evident that the existing administrative and judicial oversight mechanisms are insufficient to rectify these breaches. The repercussions of such discrepancies are profound, risking the bifurcation of the industry into esteemed establishments that uphold standards and those which are avoided by discerning clients and potential employees<sup>8</sup>. Such lapses not only diminish the service quality and mar the prestige of individual establishments but, in the long run, can tarnish the reputation and brand value of the entire HoReCa industry.

## 2. Methodology and theoretical framework

This research is firmly rooted in the paradigm of sociology of law, with a particular emphasis on comparing the empirical operations of Polish catering entities to the postulated legal framework of Occupational Safety and Health (OSH). Our central

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(<sup>4</sup>) B. Bilska - W. Grzebińska - M. Tomaszewska - W. Przybylski, *Ocena wpływu wybranych czynników na wybór lokali gastronomicznych*, in *Roczniki Naukowe Stowarzyszenia Ekonomistów Rolnictwa i Agrobiznesu*, 2014, 16, 4, 36 s.; O. Mancheva-Ali, *Factors Influencing the Choice of Catering Establishments Among Bulgarian Consumers*, in *Социално-икономически анализи*, 2020, 1, 75–77.

(<sup>5</sup>) read more M. Giovannone, *Vulnerable Workers: Health, Safety and Well-being*, Routledge, 2016.

(<sup>6</sup>) M. Ambroziewicz i in., *Meritum - bezpieczeństwo i higiena pracy*, Wolters Kluwer Polska, 2017; *Oxford Handbook of Occupational Health*, S. Sadhra - J. Smedley - F. Dick (eds.), seria in *Oxford Medical Handbooks*, 3, Oxford University Press, 2022.

(<sup>7</sup>) E. Gheribi, *Factors Affecting the Development of Catering Enterprises in Poland*, in *Ekonomiczne Problemy Turystyki*, 2015, 31, 3, 208–219.

(<sup>8</sup>) R. Zabrocki, *Wybrane czynniki kształtowania jakości i satysfakcji konsumentów w usługach gastronomicznych*, in *Zeszyty Naukowe / Uniwersytet Ekonomiczny w Poznaniu*, 2012, 236, 75–82.

interest revolves around the discrepancies between operational realities and state and EU legislation.

### **2.1 Theoretical framework**

Drawing inspiration from the expansive school of legal realism, with influential figures like Eugen Ehrlich<sup>9</sup>, Roscoe Pound<sup>10</sup>, and the Nordic realist school of law, notably Axel Hägerström, our theoretical framework guides our research conceptually<sup>11</sup>.

In the Polish Hospitality, Restaurant, and Catering (HoReCa) sector, the tangible 'law in action' often overshadows the 'law in books.' Bars and restaurants operate as unique entities, formulating their own legal standards and micro-legal systems, especially in areas concerning health, safety, and labour. This evolving gastronomic law remains largely distinct from the broader state law, including international labour law and EU labour law.

In essence, these catering establishments do not simply reflect the application practices of state law. Instead, they champion their own unique normative systems. While these systems diverge from the national written law, they aren't necessarily in conflict with it. The law in action in these establishments exhibits limited reliance on state book law; they essentially represent competing normative paradigms. Yet, the state's more expansive legal system, with its inherent power, often tries to assert its dominance over these microsystems. However, in many Polish eateries, the state doesn't always prevail. From a state viewpoint, such divergence might be labelled as a 'pathology,' but within HoReCa establishments, it's an accepted norm.

**The study is based on the main hypothesis:** In the Polish catering sector, national, EU and international OSH rules are respected only to a limited extent, which significantly affects the quality of services offered. Moreover, supervision and control institutions for compliance with standards in the food industry are ineffective and resistant to problems. Furthermore, Polish bars and restaurants have developed their own independent internal normative micro-systems, which are separate from the national legal system on OSH; they are governed by their own laws.

Through our observations of various catering establishments in cities such as Cracow, Czestochowa, Gdansk, Lublin, and Wroclaw, and through dialogues with staff from diverse eateries, we identified several initial challenges in the HoReCa sector, particularly regarding adherence to OSH and sanitary regulations. These findings underpinned the rationale for this research. The research pivots on several objectives:

1. **Exploratory Objective:** To delineate the phenomenon of OSH compliance in Polish catering establishments.

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(<sup>9</sup>) E. Ehrlich, *Fundamental principles of the sociology of law*, Transaction Publishers, 2002, 3-26. 486-507.

(<sup>10</sup>) R. Pound, *Law in Books and Law in Action*, in *American Law Review*, 1910, 44, 14-34.

(<sup>11</sup>) J. Bjarup, *The Philosophy of Scandinavian Legal Realism*, in *Ratio Juris*, 2005, 18, 1, 2-13.

2. **Explanatory Objective:** To comprehend why certain safety rules, stipulated by Polish, EU and international law, are either not fully embraced or are misapplied in foodservice venues, taking into account international labour law and EU labour law, and the impact on service quality.

3. **Implementation Objective:** Propose strategies to elevate health, safety, and labour standards in the Polish HoReCa sector, considering international labour law and EU labour law, and advocate pertinent legislative alterations.

4. **Scientific Objective:** To discern whether these entities have crafted their own legal microsystems or if they merely neglect state law, including international labour law and EU labour law.

One key question this research aims to address is the congruence between legal stipulations, including international labour law and EU labour law, and the practical demands of the business. We also evaluate the effect of compliance on the quality of services provided. The matter remains intriguing as to whether the Polish situation in the HoReCa industry is unique within the European context, or if it is similar to other European Union member states. Encountering seemingly analogous instances in Greek studies, we aim to address the question of whether Poland's situation is indeed unique or comparable<sup>12</sup>.

## 2.2 Methods

We utilised a triangulation of qualitative research methods in this study. All adopted methods fall under the qualitative research paradigm. The primary focus of the investigation was centred on in-depth interviews conducted with employees and managers from selected Polish catering establishments. Additionally, we employed the observational method; and content analysis as part of a desk research (secondary research) approach. It is crucial that the results of this research are purely qualitative and cannot be generalised to the entire population of HoReCa entities and their associated personnel. Nonetheless, the observed phenomena can serve as insightful examples of prevailing trends and behaviours within the broader catering industry.

### Observational Method<sup>13</sup>

1. **Type:** Non-intervention observation.
2. **Objective:** The observational method was initially employed as a precursor to our main research, functioning within the scope of a pilot study. This was aimed at reconnaissance, setting the framework for the primary study, obtaining an

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<sup>(12)</sup> Comparative source: G. Ioannou, *Contracting for Work in Tourism and Catering in Greece: Beyond a State/Market Dichotomy*, in *Industrial Law Journal*, 2021, 50, 4.

<sup>(13)</sup> Conducted based on: B. Smart, K. Peggs, J.D. Burridge, *Observation methods*, SAGE, 2013.

intuitive feel of the industry, and also playing a crucial role in the selection of subsequent interview participants.

3. **Research Period:** 1<sup>st</sup> February 2022 to 5<sup>th</sup> May 2022.
4. **Locations Observed:** 17.
5. **Subjects Types:** Restaurant (small scale, less than 10 employees): 4; Chain restaurant: 3; Pub: 1; Café: 4; Ice-Cream parlour: 2; Sushi bar: 3.
6. **Staff Observed:** 56.
7. **Total Individuals Observed:** 183.
8. **Observation Cities:** Czestochowa, Cracow, Wroclaw, Gdansk, Lublin, Katowice.

#### Semi-Structured In-depth Interviews (SSI) <sup>14</sup>

1. **Objective:** This method targeted both employees and managerial personnel within Polish HoReCa establishments. The interviews intended to derive rich insights into health, safety, labour, and sanitary challenges faced by these establishments, taking into account international labour law and EU labour law. The chosen participants were earmarked for their potential to provide a comprehensive portrayal of these issues from their dual perspectives – both as employees and as overseers.

2. **Research Period:** 14th July 2022 to 14th November 2022.

3. **Sample Size:** 22 persons.

4. **Sampling Criteria:** expert (purposive) sampling. Participants had a minimum of 3 years of experience in catering, occupied diverse roles within the sector, worked across multiple types of catering venues, demonstrated in-depth knowledge of the foodservice domain, were open to share as experts, and engaged in interviews either directly or through virtual means.

5. **Technique:** the interviews were conducted candidly and recorded with participants' informed consent. The researcher conducted the interviews face-to-face on the workplaces or remotely.

6. **Research Group Composition:** Gender: 15 males, 7 females; Age Distribution: 26-35 years: 15 persons; 36-45 years: 6 persons; 46-55 years: 1 person.

7. **Employment Locations:** Wroclaw, Warsaw, Czestochowa, Cracow, Gdansk, Lublin, Rzeszow, Swidnica, Katowice.

8. **Experience across Facility Types:** Restaurant (small scale): 22; Café: 16; Chain restaurant: 14; Pub: 9; Sushi bar: 3; Ice-Cream parlour: 2; Fish fry: 2; Pancake house: 2; Other: 14.

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<sup>(14)</sup> *The SAGE Handbook of Interview Research: The Complexity of the Craft*, J. Gubrium - J. Holstein - A. Marvasti - K. McKinney (eds.), SAGE, 2012; S. Kvale - S. Brinkmann, *InterViews: Learning the Craft of Qualitative Research Interviewing*, SAGE, 2009; P. Sztabiński - Z. Sawiński - F. Sztabiński, *Fieldwork jest sztuką: jak dobrać respondenta, skłonić do udziału w wywiadzie, rzetelnie i sprawnie zrealizować badanie: praca zbiorowa*, Wydawnictwo Instytutu Filozofii i Socjologii Polskiej Akademii Nauk, 2005.



Content Analysis (secondary research)<sup>15</sup>

- **Objective:** This method was particularly directed towards scrutinizing various legal documents, other officials reports and literature. The underlying intent was to understand the theoretical legal frameworks and see how they aligned or deviated from on-ground realities in Polish eateries.
- **Method:** legal analytical method<sup>16</sup>.
- **Range:** Polish law acts, EU health and safety and labour law regulations, International Labour Organisation (ILO) regulations and private company law, other sources.

The research journey, driven by a blend of observational insights, in-depth interviews, and content analyses, has paved the way for a multifaceted understanding of the HoReCa sector's dynamics within Poland. The current study is part of a research project published in 2022<sup>17</sup>. In the ensuing sections, we unfold the intricacies of our findings, the implications they hold, and the potential pathways forward.

### 3. Legal Perspective

The domain of health, safety, and sanitation in restaurants, pubs, and bars is of paramount importance, concerning employees, employers, guests, and the broader public interest. In the HoReCa (Hotel, Restaurant, and Catering) sector, the enforcement of high Occupational Safety and Health (OSH) standards is crucial. Deficiencies in this area can lead to diseases and disasters linked to unwholesome food. Furthermore, guaranteeing top-tier health and safety standards for employees is equally significant. The working conditions in bars and restaurants are often challenging and demanding, necessitating adequate protection against hazardous factors, equitable employment terms, fair compensation, and overall safety<sup>18</sup>. Thus, ensuring food safety, meticulous food preparation, catering, and employee welfare demands special attention

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<sup>(15)</sup> Conducted based on: C. Largan, T. Morris, *Qualitative Secondary Research: A Step-By-Step Guide*, SAGE, 2019.

<sup>(16)</sup> D. Kędzierski, *Metodologia i paradygmat polskich szczegółowych nauk prawnych*, in *Transformacje Prawa Prywatnego*, 2018, 3.

<sup>(17)</sup> S. July, *Gastronomia. Praca i prekaria Studium socjologiczno-prawne [The food service. Work and precariat. A sociological and legal study]*, Wydawnictwo Rys, 2022.

<sup>(18)</sup> W. Bukala, K. Szczęch, B. Breitkopf, *Bezpieczeństwo i higiena pracy: podręcznik do nauki zawodu*, WSiP, 2020, 6–16; Ż. Grygiel-Kaleta, *Zakres podmiotowy obowiązków z zakresu BHP w świetle przepisów prawnopracowniczych i karnoprawnych*, in *Studia z Zakresu Prawa Pracy i Polityki Społecznej*, 2019, 26, 4, 409–416; M. Kaźmierczak, *Bezpieczeństwo i higiena pracy a rozwój koncepcji społecznej odpowiedzialności biznesu*, in *Bezpieczeństwo Pracy: nauka i praktyka*, 2009, 5, 11–13; M. Stankiewicz, M. Sznajder, *Kultura bezpieczeństwa i higieny pracy w organizacji* [in:] *Kształtowanie kultury bezpieczeństwa i higieny pracy w organizacji*, J. Ejdyś (eds.), Oficyna Wydawnicza Politechniki Białostockiej, 2010, 10–64.

from both national governments and international bodies. This need for safeguarding should be manifested through the introduction of effective legislative solutions and their rigorous application and enforcement in the event of violations.

### 3.1 *International Legal Frameworks*

Globally, health and safety regulations in the HoReCa sector are influenced more by a set of guidelines and standards than direct legislation. Predominantly, these include the standards set by the Codex Alimentarius, developed by the Food and Agriculture Organization (FAO) of the United Nations and the World Health Organization (WHO). The **Codex Alimentarius**, or "Food Code," is a compendium of international standards, guidelines, and codes of practice designed to ensure the safety and quality of food products. These standards are globally recognized and harmonize national food safety regulations<sup>19</sup>. They serve as a benchmark for food safety within the World Trade Organization's **Agreement on the Application of Sanitary and Phytosanitary Measures**<sup>20</sup>. The Codex standards address various facets of food safety, including hygiene, additives, contaminants, labelling, and nutrition, rendering them particularly pertinent to the restaurant industry.

The WHO's role in promoting food safety is crucial. It includes providing scientific advice, supporting the development of international standards for food safety through the Codex Alimentarius, and endorsing safe food handling practices. The organization's efforts encompass the creation of resources and tools to enhance the understanding and implementation of food safety measures<sup>21</sup>.

These international guidelines and standards are instrumental in shaping national legislation and regulations in various countries, affecting restaurant operations globally. They ensure that when food producers and traders adhere to these standards, consumers can trust the safety and quality of the products, and importers can be confident that the food meets the required specifications.

The International Labour Organization (ILO) contributes through conventions and recommendations that establish international labour standards, including those relevant to occupational safety and health (OSH). These standards are intended for adoption or adaptation by member countries into their national legislation<sup>22</sup>. For the

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(<sup>19</sup>) *Codex Alimentarius Commission*, <https://www.fao.org/fao-who-codexalimentarius> [10 December 2023]; *Understanding the Codex Alimentarius*, Food and Agriculture Organization of the United Nations and World Health Organization, 2016.

(<sup>20</sup>) *Understanding the Sanitary and Phytosanitary Measures Agreement*, [https://www.wto.org/english/tratop\\_e/sps\\_e/spsund\\_e.htm](https://www.wto.org/english/tratop_e/sps_e/spsund_e.htm) [10 December 2023]; *Agreement on the Application of Sanitary and Phytosanitary Measures*.

(<sup>21</sup>) *Food Safety*, <https://www.who.int/health-topics/food-safety> [10 December 2023].

(<sup>22</sup>) I. Bulski, *Regulacje międzynarodowe dotyczące problematyki BHP*, 2010; J. Ejdyś, *System zarządzania bezpieczeństwem i higieną pracy narzędziem kształtowania kultury bezpieczeństwa organizacji*, in *Kształtowanie kultury bezpieczeństwa i higieny pracy w organizacji*, J. Ejdyś (eds.), Oficyna Wydawnicza Politechniki Białostockiej, 2010, 119-127.

HoReCa sector, specific ILO conventions or recommendations focus on this sector, but several ILO instruments broadly apply, ensuring safe and healthy working conditions in the restaurant industry<sup>23</sup>.

International conventions, concluded under the auspices of the ILO, are vital. From the perspective of the Polish catering sector, they can be categorized into international agreements directly concerning work with food in catering establishments and conventions regulating general principles of work, inclusive of the HoReCa sector. Recommendations, although lacking the legal power to compel member states, serve as robust guidelines for national legislatures. Notable conventions and recommendations pertinent to the HoReCa sector include:

- **ILO Working Conditions (Hotels and Restaurants) Convention, 1991 (No. 172) and Recommendation (No. 179)**, focusing on specific working rules in the HoReCa sector<sup>24</sup>.

- **ILO Hygiene (Commerce and Offices) Convention, 1964 (No. 120)**, applicable to commerce and offices, encompasses elements like workplace hygiene relevant to restaurant and café environments<sup>25</sup>.

Other general ILO conventions and recommendations also significantly impact the catering sector:

- **ILO Occupational Safety and Health Convention, 1981 (No. 155) & Recommendation (No. 164)**, establishing general principles for OSH management and promoting national OSH policies, systems, and programs, applicable across all sectors, including HoReCa<sup>26</sup>.

- **ILO Occupational Health Services Convention, 1985 (No. 161) & Recommendation (No. 171)**, focusing on the establishment of occupational health services advising on maintaining safe and healthy working environments in the HoReCa sector<sup>27</sup>.

- **ILO Promotional Framework for Occupational Safety and Health Convention, 2006 (No. 187)**<sup>28</sup>.

These classic acts of international law must be transposed into national legislation to be invoked by national entities. Poland has transposed all these conventions into its

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<sup>(23)</sup> *Food, drink and tobacco sector*, <https://www.ilo.org/global/industries-and-sectors/food-drink-tobacco> [10 December 2023 ].

<sup>(24)</sup> Convention C172 - Working Conditions (Hotels and Restaurants) Convention (172); Recommendation R179 - Working Conditions (Hotels and Restaurants) Recommendation (R179).

<sup>(25)</sup> Convention C120 - Hygiene (Commerce and Offices) Convention (C120).

<sup>(26)</sup> C155 - Occupational Safety and Health Convention (C155); Recommendation R164 - Occupational Safety and Health Recommendation, 1981 (No. 164) (R164).

<sup>(27)</sup> C161 - Occupational Health Services Convention (C161); Recommendation R171 - Occupational Health Services Recommendation (R171).

<sup>(28)</sup> C187 - Promotional Framework for Occupational Safety and Health Convention (C187).

legal system<sup>29</sup>. However, international norms are not enforced coercively, and non-compliance by member states cannot be compelled through international tribunals. It is up to each state to decide the extent to follow these conventions and compel domestic actors to apply them.

### 3.2 EU Legal Frameworks

The European Union (EU) has established a comprehensive and nuanced legislative system of health and safety standards within the HoReCa sector. This intricate framework is designed with the dual aim of ensuring the highest standards of safety and health for employees, while simultaneously addressing the specific operational intricacies of the restaurant industry<sup>30</sup>.

EU regulations can be divided into those specific to the food and leisure sector and those concerning general labour, health, and safety rules, including those applicable to the HoReCa sector. Unlike global measures, the EU, as a comprehensive and specialized organization, deals with matters related to both working conditions and sanitary issues. Key EU developments specific to the HoReCa sector include:

1. **Regulation (EC) No 852/2004 (HACCP):** This regulation, critical in the restaurant sector, sets out the general hygiene requirements for all food business operators. It includes a range of measures from food storage to preparation, ensuring adherence to the highest standards of hygiene and safety<sup>31</sup>.
2. **Directive 2000/54/EC:** Crucial in restaurants where exposure to biological agents is heightened due to food handling and preparation. It outlines comprehensive safety and health requirements to protect workers from biological hazards, ensuring a safe culinary environment<sup>32</sup>.
3. **Directive 2009/104/EC:** Focusing on the safe use of work equipment, crucial in restaurants that utilize a range of machinery and tools, from cooking

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(<sup>29</sup>) J. Jankowiak, *Prawo pracownika do zakładowego zasobu wiedzy w sferze BHP*, in *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 2007, 68, 4, 110-121; A. Musiała - J. Jankowiak, *Prawo pracownika górniczego do wiedzy w sferze bhZarys koncepcji w oparciu o przepisy Konwencji MOP 176*, in *WUG: bezpieczeństwo pracy i ochrona środowiska w górnictwie*, 2007, 7, 36 s.

(<sup>30</sup>) *European directives on safety and health at work*, <https://osha.europa.eu/pl/safety-and-health-legislation/european-directives> [1 September 2022]; D. Koradecka, *Bezpieczne i zdrowe miejsca pracy - szanse i zagrożenia związane z wdrażaniem dyrektyw UE w zakresie BHP*, in *Polityka Społeczna*, 2002, 11 s., 18–25; K. Zakrzewska-Szczepeńska, *Wdrażanie prawa Wspólnot Europejskich w zakresie bezpieczeństwa i ochrony zdrowia pracowników do prawa polskiego (cz.II)*, in *Prawo Unii Europejskiej*, 2003, 6, 23-29.

(<sup>31</sup>) Regulation (EC) no 852/2004 of the European Parliament and of the Council of 29 April 2004 on the hygiene of foodstuffs (32004R0852).

(<sup>32</sup>) Directive 2000/54/EC of the European Parliament and of the Council of 18 September 2000 on the protection of workers from risks related to exposure to biological agents at work (seventh individual directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 262, 17.10.2000, 21-45).

appliances to cleaning equipment. This directive ensures their safe and effective utilization, minimizing accident risks<sup>33</sup>.

4. **Directive 89/656/EEC:** In the HoReCa sector, the use of personal protective equipment (PPE) is vital for various tasks. This directive mandates the provision and use of appropriate PPE, tailored to the specific risks in restaurant operations<sup>34</sup>.

Additionally, EU legislation on health and safety and working conditions, affecting all sectors of the economy, holds great importance for the restaurant sector. Notably,

5. **Directive 89/654/EEC** pertains to the minimum safety and health requirements for the workplace. It translates into the restaurant milieu as standards governing the physical layout, encompassing aspects such as lighting, ventilation, and emergency exits<sup>35</sup>.

6. **Framework Directive 89/391/EEC** establishes the fundamental principles for workplace safety and health, emphasizing risk assessment, the prevention of occupational risks, and providing training and information to employees, all crucial in the fast-paced and complex environment of restaurants<sup>36</sup>.

EU regulations can be directly applied, while directives must be transposed into national legal systems. EU law plays a significant role in the observance of occupational health and safety principles and workers' rights in EU countries, often more significant than national legislation.

### **3.3 Polish Legal Framework**

In Poland, the catering sector is governed by a comprehensive legislative framework, designed to balance operational efficacy with the paramount importance of health and safety and working conditions. This framework comprises several key statutes, each addressing distinct aspects of the industry. Central to this is **The Act on Food Safety and Nutrition**, which governs standards of food handling and hygiene<sup>37</sup>.

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<sup>(33)</sup> Directive 2009/104/EC of the European Parliament and of the Council of 16 September 2009 concerning the minimum safety and health requirements for the use of work equipment by workers at work (second individual Directive within the meaning of Article 16(1) of Directive 89/391/EEC) (OJ L 260, 3.10.2009, 5-19).

<sup>(34)</sup> Council Directive 89/656/EEC of 30 November 1989 on the minimum health and safety requirements for the use by workers of personal protective equipment at the workplace (third individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 393, 30.12.1989, 18-28).

<sup>(35)</sup> Council Directive 89/654/EEC of 30 November 1989 concerning the minimum safety and health requirements for the workplace (first individual directive within the meaning of Article 16 (1) of Directive 89/391/EEC) (OJ L 393, 30.12.1989, 1-12).

<sup>(36)</sup> Council Directive 89/391/EEC of 12 June 1989 on the introduction of measures to encourage improvements in the safety and health of workers at work (OJ L 183, 29.6.1989, 1-8).

<sup>(37)</sup> Ustawa z dnia 25 sierpnia 2006 o bezpieczeństwie żywności i żywienia (Dz. U. z 2020 poz. 2021 z późn. zm.).

This act is pivotal in upholding high levels of food safety in the HoReCa sector. Accompanying regulations concerning health standards for personnel in food services highlight the interplay between employee health and overall food safety.

The **Act on Substances and Preparations Hazardous to Health and the Environment** governs the handling and storage of cleaning chemicals, ensuring their use is conducted with precision, mirroring the culinary arts they support. Equally important are good working conditions<sup>38</sup>.

Working conditions in Poland are derived primarily from the **Labour Code**, the fundamental act governing employment relations, including those in the HoReCa sector<sup>39</sup>. The Labour Code addresses safety measures integral to the environments of kitchens and dining areas, emphasizing fire safety and accident prevention. Ergonomic standards, as outlined in the Labour Code, are crucial given the physically demanding nature of hospitality roles. They serve to mitigate health risks associated with the physicality of hospitality work. Additionally, the **Regulation on Preventive Health Care for Employees**, mandates regular health assessments, particularly crucial for employees in direct contact with food and beverages<sup>40</sup>.

Detailed and universal OSH rules are outlined in the 1997 regulation by the Polish Minister of Labour and Social Policy. These rules apply to all individuals present in the workplace and encompass the places and circumstances of work performance<sup>41</sup>. However, neither Polish nor EU legislation comprehensively regulates conditions specific to the HoReCa industry. Consequently, entrepreneurs in this sector often rely on their judgment, guided by the food acts and general legal norms applicable across all sectors. The **Environmental Protection Law** also plays a vital role, with stipulations on noise control, crucial in creating a harmonious ambiance in HoReCa settings<sup>42</sup>.

Failure to comply with these standards can result in administrative penalties, civil, and criminal liability<sup>43</sup>. Some OSH principles intertwine with labour law, food

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<sup>(38)</sup> Ustawa z dnia 25 lutego 2011 o substancjach chemicznych i ich mieszaninach (Dz. U. z 2022 poz. 1816).

<sup>(39)</sup> Ustawa z dnia 26 czerwca 1974 Kodeks pracy (Dz. U. z 2020 poz. 1320 z późn. zm.).

<sup>(40)</sup> Rozporządzenie Ministra Zdrowia i Opieki Społecznej z dnia 30 Maja 1996 w sprawie przeprowadzenia badań lekarskich pracowników, zakresu profilaktycznej opieki zdrowotnej nad pracownikami oraz orzeczeń lekarskich wydawanych do celów przewidzianych w Kodeksie pracy (Dz. U. z 2023 poz. 607).

<sup>(41)</sup> Rozporządzenie Ministra Pracy i Polityki Socjalnej z dnia 26 września 1997 w sprawie ogólnych przepisów bezpieczeństwa i higieny pracy (Dz. U. z 2003 Nr 169, poz. 1650 z późn. zm.).

<sup>(42)</sup> Ustawa z dnia 27 kwietnia 2001 Prawo ochrony środowiska (Dz. U. z 2022 poz. 2556 z późn. zm.).

<sup>(43)</sup> M. Ambroziewicz i in., *Meritum - bezpieczeństwo i higiena pracy*; B. Krzyśków, *Odpowiedzialność za wypadki na budowie*, in *Bezpieczeństwo Pracy - Nauka i Praktyka*, 2014, 2; P. Skowron, *Odpowiedzialność osób kierujących pracownikami w systemie zarządzania bezpieczeństwem i higieną pracy*, in *Prace Naukowe Uniwersytetu Ekonomicznego we Wrocławiu*, 2013, 301, 140–145; R. Widzisz, *Odpowiedzialność za naruszenie bezpieczeństwa i higieny pracy w świetle art220 kodeksu karnego*, in *Prokuratura i Prawo*, 2005, 4, 63-84.

sanitation<sup>44</sup>, fire safety<sup>45</sup>, and construction safety<sup>46</sup>. Legislation provides intricate regulations for workplace safety and hygiene, applying broadly to specific settings or situations<sup>47</sup>.

The legislative framework in Poland's HoReCa sector is a blend of sector-specific and general regulations, demonstrating a deep understanding of the industry's unique demands and risks. This framework not only fosters operational efficiency and innovation but also steadfastly upholds the standards of health, safety, and well-being for both service providers and patrons.

### 3.4 *Enforcement and Compliance*

The enforcement of regulations derived from international conventions, EU law, and administrative acts in the HoReCa sector is a critical aspect of ensuring health, safety, and hygiene standards, as well as proper working conditions. These regulations, universally applicable regardless of legal status, pertain to the context and situations of work performance rather than individuals.

Monitoring compliance with health, safety, and hygiene standards, as well as working conditions, is primarily the responsibility of employees and their representative organizations. This includes trade unions, works councils, social labour inspectors, and OSH committees<sup>48</sup>. However, external state oversight becomes crucial when internal supervision is insufficient. Key bodies ensuring compliance with safety rules in the catering industry include:

- **The State Labour Inspectorate (PIP):** Plays a significant role in inspecting and enforcing labour laws and safety regulations<sup>49</sup>.
- **The State Sanitary Inspectorate (SANEPID):** Responsible for overseeing sanitation and public health standards in workplaces, including restaurants and catering services<sup>50</sup>.
- **Fire Brigade Inspections:** Ensure compliance with fire safety regulations, a critical aspect in the restaurant industry given the use of cooking equipment.

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(44) *Ustawa z dnia 25 sierpnia 2006 o bezpieczeństwie żywności i żywienia.*

(45) *Ustawa z dnia 24 sierpnia 1991 o ochronie przeciwpożarowej (Dz. U. z 2021 poz. 869).*

(46) *Rozporządzenie Ministra Infrastruktury z dnia 6 lutego 2003 w sprawie bezpieczeństwa i higieny pracy podczas wykonywania robót budowlanych (Dz. U. Nr 47, poz. 401).*

(47) M. Abramowski, *BHP 2020: podręczny zbiór przepisów*, C. H. Beck, 2020, 221-375; M. Ambroziewicz i in., *Meritum - bezpieczeństwo i higiena pracy, op. cit.*, 269-573, 1453-1709.

(48) K.W. Baran i in., *System prawa pracy. Zbiorowe prawo pracy*, Wolters Kluwer, 2014, 129-157, 411-494; T. Liszcz, *Spoleczna inspekcja pracy - niezbędny instrument spolecznego (związkowego) nadzoru nad przestrzeganiem prawa pracy*, in *Praca i Zabezpieczenie Spoleczne*, 2019, 4, 2-11; B. Rutkowska, *Spoleczna inspekcja pracy - niedoskonałości regulacji prawnej*, in *Studia z Zakresu Prawa Pracy i Polityki Spolecznej*, 2017, 24, 4, 277-290; G. Szynal, *Sądowa kontrola rozwiązania stosunku pracy*, Wolters Kluwer, 2020, 78-86.

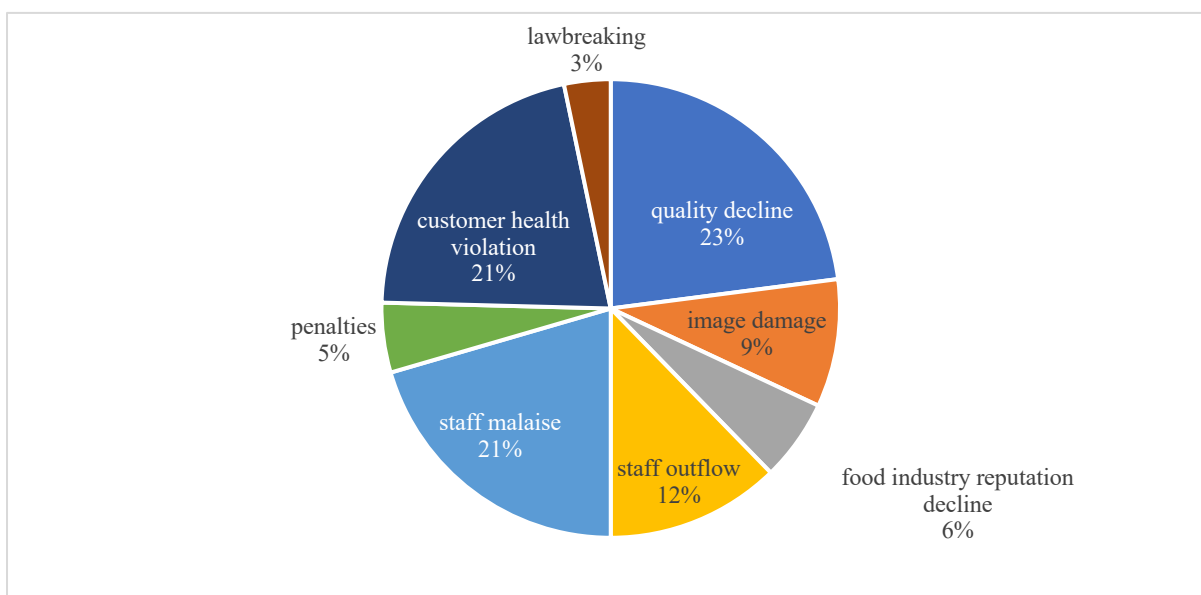
(49) *Ustawa z dnia 13 kwietnia 2007 o Państwowej Inspekcji Pracy (Dz. U. z 2019 poz. 1251).*

(50) *Ustawa z dnia 14 marca 1985 o Państwowej Inspekcji Sanitarnej (Dz. U. z 2021 poz. 195).*

In addition to these, other authorities such as the Police, the Public Prosecutor's Office, the Social Insurance Institution (ZUS), and the National Tax Administration (KAS) exercise supervisory competencies over workplaces and employers<sup>51</sup>. In exceptional cases, labour courts may also assume a supervisory role, particularly in disputes related to employment conditions or safety violations.

#### 4. Catering industry practice

Every discerning restaurant guest expects food to be meticulously prepared in accordance with stringent sanitary protocols. Any signs of negligence, such as disorderly kitchen or service spaces, infestations, whether rodents or insects, fungal contamination, expired ingredients, unwell kitchen staff, or unpleasant odours, pose significant risks to both consumers and employees. The discovery of such issues typically results in public outrage and, ultimately, the closure of the establishment.



**Figure 1** Main problems of the catering sector in Poland; percentage of total interviewed experts' responses.

Non-compliance with internal health and safety guidelines also carries severe repercussions for employees. Respondents emphasize that malfunctioning kitchen equipment, improper utensils, refrigeration issues, cramped working conditions, inadequate protective gear for cooks, subpar lighting, and faulty knives can lead to emergencies, fires, foodborne illnesses, and even fatalities. These problems may additionally result in occupational diseases arising from factors like excessive heat or ionizing radiation. Any adverse occurrences related to OSH invariably translate to a

<sup>(51)</sup> M. Ambroziewicz i in., *Meritum - bezpieczeństwo i higiena pracy*, 100-265.



decline in service quality, tarnishing the restaurant's reputation, staff dissatisfaction, attrition, and, ultimately, a negative perception of the entire sector<sup>52</sup>.

It is worth noting that personnel within bars and restaurants themselves recognize the paramount importance of health and safety regulations. They regard compliance with these regulations as the cornerstone of successful catering businesses, prioritizing it even above the quality and flavour of the prepared food, the restaurant's ambiance, or its location. However, employees often lack comprehensive familiarity with the intricate details of labour law and administrative statutes in this domain. Observations suggest that emphasis is predominantly placed on adhering to sanitary regulations due to the fear of repercussions for non-compliance, while the commitment to health and safety regulations may vary based on the size and nature of the catering establishment.

For instance, interviewed an expert with experience in restaurants in Wrocław expressed:

I have accrued a cumulative experience of 15 years working across diverse bars and restaurants, culminating in my establishment of a sushi bar in Wrocław. Throughout this extensive trajectory, it is a rare occurrence, perhaps only once, that an employer provided comprehensive elucidation on the intricacies of labour laws and the imperative nuances of health and safety regulations. Notwithstanding this, management consistently underscored our collective obligation to meticulously adhere to health and safety protocols. It was unequivocally impressed upon us that comprehension and steadfast compliance with these regulations were paramount, an understanding we had to internalize independently.

The spectre of sanitary inspections, notably by SANEPID, loomed large over our industry, a persistent source of apprehension. The fear of potential foodborne illnesses and the ensuing legal repercussions instilled in us a deep-seated commitment to self-education and unwavering adherence to OSH standards. This dynamic, however, exhibited marked variations across establishments. In the ambit of large, chain-driven restaurants, specialized OSH training regimens and dedicated inspectors were de rigueur. Conversely, in the intimate confines of smaller bars, the onus rested squarely on the shoulders of employees to acquaint themselves with and diligently implement health and safety provisions.

And an expert from Cracow complements:

In the milieu of compact establishments, the issue of compliance occasionally posed considerable challenges. My steadfast belief is that a thriving culinary enterprise

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<sup>(52)</sup> E. Cieślak - M. Stachura - K. Topolska, *Jakość usług gastronomicznych w opinii konsumentów*, in *Bromatologia i Chemia Toksykologiczna*, 2010, 43, 4, 567-571; M. Świątkowska - D. Stangierska - Y. Ulyanitskaya, *Czynniki wyboru i satysfakcji z usług świadczonych przez lokale fast food w świetle badań klientów i pracowników*, in *Zeszyty Naukowe SGGW w Warszawie. Ekonomia i Organizacja Gospodarki Żywnościowej*, 2017, 119, 183-191.

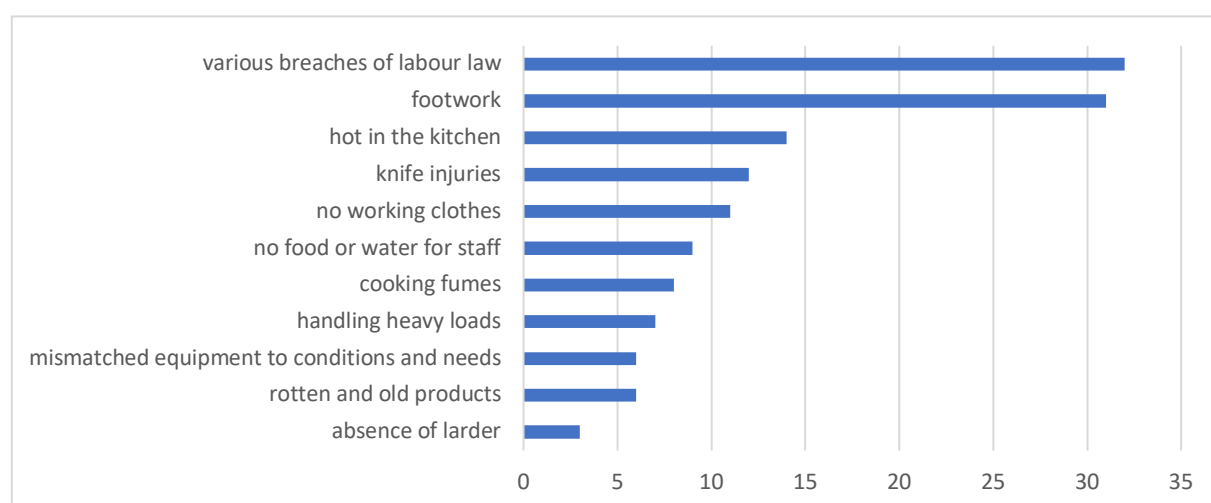
is contingent upon unwavering adherence to these regulations. The discerning patron can swiftly discern when employees are subjected to suboptimal conditions, and the upkeep falls below par. Hence, the proposition of skirting these regulations is a foolhardy one.

Now, as proprietor of my own bar, I approach the matter with the utmost diligence. I invest substantial effort in rigorously orienting my staff regarding OSH protocols. This, I am convinced, not only safeguards our customers but also underscores the paramount importance of these regulations in the eyes of my dedicated team.

This perspective underscores the critical role of health and safety regulations in the gastronomic industry and the varying approaches to compliance across establishments of different sizes and nature.

#### **4.1 Non-Compliance**

A significant portion of health and safety concerns within catering establishments directly relates to labour practices, in accordance with Polish, EU, and international labour laws. Respondents highlight that labour standards are frequently disregarded in catering establishments, especially those with limited staff, such as small bars and restaurants. The extent of Occupational Safety and Health (OSH) violations regarding labour laws is staggering, with many such establishments seemingly adhering to their own employment protocols, which often significantly deviate from public legal standards. In the broader context of the catering industry, compliance with public legal norms is uncommon, as establishments often prioritize their internal rules over state law. Interestingly, the situation tends to be more favourable within larger chain restaurants (McDonald, KFC).



**Figure 2** Main OSH challenges in Polish catering establishments; number of interviewed experts' responses.

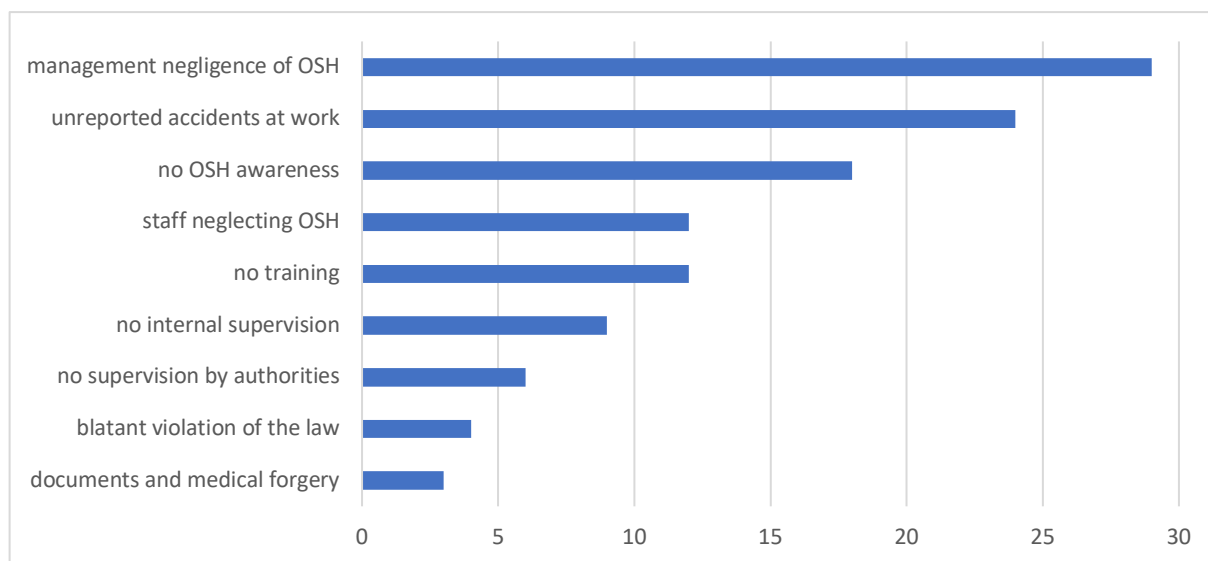
This section delves into the less sensational yet equally significant OSH-related challenges prevalent in foodservice establishments. While these issues may not grab headlines like accidents, they significantly deter potential employees and compromise overall service quality. Interviewed experts mention that these challenges encompass concerns such as inadequate lighting, improperly sized equipment, heavy lifting requirements, prolonged standing, lack of protective gear, infrequent breaks, insufficient safety equipment, inadequate refreshment provisions, poor ventilation, signage issues, and improper storage conditions.

Furthermore, our specialists underscore the pervasive problem of inadequate OSH training. Employees often receive insufficient training, with both initial and periodic training conducted haphazardly, often reduced to the mere signing of certificates by medical professionals or OSH specialists. These lax practices create fertile ground for malpractice, including the falsification of documentation through unofficial channels<sup>53</sup>.

The prevalent culture of non-compliance and circumvention of health and safety regulations can be attributed to a mix of factors, including employer ignorance, cost-cutting measures, and a lack of both internal and external oversight. Low and sporadic penalties for violations, coupled with employees' dependence on their employers, further compound the challenges, making structural reforms in this domain exceptionally challenging.

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<sup>(53)</sup> *Gastronomia* *ogłoszenia*, <http://www.oglaszamy24.pl/ogloszenia/?std=1&keyword=gastronomia> [7 September 2022 ]; *Zakup fałszywej książkieczki sanepidu, to nie problem*, <https://www.rynekzdrowia.pl/Prawo/Warszawa-zakup-falszywej-ksiazeczki-sanepidu-to-nie-problem,8340,2.html> [7 September 2023].



**Figure 3 Identified causes of OSH rules compliance problems in Polish catering premises; number of interviewed experts' indications.**

Non-compliance with OSH standards within foodservice establishments brings about far-reaching complications. The survey respondents unanimously point to workplace accidents as the most significant and perilous outcomes, particularly in smaller bars and restaurants.

An expert from Gdansk shared a sobering perspective:

*Work-related incidents manifest as routine events within the establishments of bars and restaurants, where I have diligently served for the past eight years. These occurrences, however, are seldom referred to as 'accidents,' a nomenclature that my superiors conscientiously eschew due to its potential legal ramifications. Predominantly, these incidents manifest as thermal burns or lacerations resulting from contact with sharp culinary implements. There are also instances of culinary staff succumbing to the rigors of noxious fumes and oppressive ambient heat, with the summer months being particularly arduous for cooks. Furthermore, the protracted periods spent standing, either within the confines of the kitchen or at the service counter, usher in their own set of challenges.*

Second expert from Lublin also mentions:

*Over the course of my career, I can recall only a solitary episode in which a significant burn injury was officially acknowledged as a workplace mishap, subsequently reported to the relevant authorities. Paradoxically, this afflicted individual was subsequently discharged from employment, purportedly on grounds of diminished work performance. It is not uncommon for such incidents and exigencies to be part and parcel of our professional milieu, yet a proactive stance from management regarding OSH standards remains a conspicuous rarity. In this milieu, it falls upon us, the employees, to be our own custodians.*

*It is conceivable that larger, more corporate establishments such as McDonald's may adopt a different approach. However, in the smaller-scale enterprises that comprise my purview, a culture of self-reliance prevails, with seasoned practitioners extending their guidance and vigilance to newcomers. In my capacity as a manager, I have personally assumed the responsibility of upholding OSH standards within the kitchen environment, although it is an initiative borne out of personal conviction rather than any explicit directive from higher echelons. In relation to the waitstaff, it is regrettably evident that their familiarity with health and safety protocols is tenuous at best, indicating a systemic lacuna that warrants rectification.*

These incidents are often downplayed or concealed to avoid legal consequences, ranging from burns and knife mishaps to health issues resulting from prolonged exposure to kitchen heat and fumes. The challenges intensify during summertime when staff endure extended hours working in the restaurant.

Official acknowledgment of these incidents remains scarce. Only one severe burn in the expert's career was officially recognized as a workplace accident. The industry seems to normalize accidents and hardships, with limited attention to OSH standards from management. Smaller bars and restaurants often operate in a survival-of-the-fittest mode, where more experienced employees mentor newcomers. The experiences of waitstaff, often unaware of health and safety regulations, remain largely unexplored.

The consensus among respondents was resoundingly unanimous - their employers, whether in management or ownership roles, displayed scant regard for these regulations, even in the aftermath of workplace accidents. A restaurant manager in Wrocław, reflecting on the prevailing labour standards in catering establishments, encapsulates the pervasive sentiment:

At present, I find myself disinclined to raise grievances concerning labour-related matters, as my remuneration is satisfactory, affording me a degree of professional autonomy that mitigates direct dependence on my employer. However, retrospection reveals a different narrative. Within the culinary industry, it is customary to forfeit expectations of respite and leisure. Enduring grueling shifts spanning 12 to 16 hours daily, sans holidays or leave, is considered the norm. Moreover, formal employment contracts remain elusive for the majority of employees. Recent trends have begun to buck this tradition, with more seasoned individuals being presented with formal contracts. Nonetheless, these agreements frequently stipulate minimal wage rates, with a substantial proportion of compensation dispensed covertly.

Evidently, labour rights within the culinary realm are undergoing gradual amelioration, yet disparities persist when juxtaposed with conventional office environments. One might conjecture that establishments like McDonald's or Starbucks maintain superior standards in this regard, given their corporate stature. However, the

landscape of small-scale culinary enterprises evolves at a languid pace, lagging in the adaptation of employee-centric standards. It remains a distinct, insular world unto itself.

Another expert from Warsaw complements:

*Food courts operate as distinct ecosystems, where the locus of authority invariably resides within the realm of management. It is my assertion that the intricacies of OSH regulations and labour laws often elude the purview of proprietors and superiors. In practice, management tends to autonomously establish operational protocols or delegates the formulation of rules to experienced employees for the guidance of less-seasoned staff.*

Here, management often dictates the rules with little regard for OSH or labour laws. The responsibility often falls upon employees to establish norms, particularly for those who are less experienced.

#### **4.2 Non-Compliance: Two Dual Standards**

The gastronomic sector often operates with a dual standard of health and safety compliance. The first standard is meticulously applied to areas visible to consumers. Here, attention to cleanliness, signage, ambiance, and the observance of customer service protocols is paramount. The motivation for this diligence is clear: customer satisfaction and the establishment's reputation and income are on the line. Compliance with OSH rules in this domain is seen as a direct contributor to patrons' well-being and satisfaction.

However, the scenario changes drastically behind the scenes, in kitchens and backrooms. Compliance with regulations in these less-visible areas often falls by the wayside. OSH rules are poorly understood, and adherence is sporadic at best. This stark contrast in compliance standards creates a potential hazard, as violations in these less-visible areas can go unnoticed and unchecked.

Particularly in chain restaurants such as AmRest (including KFC and Pizza Hut) or McDonald's<sup>54</sup>, unwavering adherence to OSH regulations remains an unwavering commitment. Consequently, there are two OSH - compliance standards: for small catering establishments and for chain restaurants. A chef-expert from Cracow and Rzeszow notes the problem:

In my time in establishments from McDonald's in Rzeszow to family restaurant in Cracow, I've been privy to the dual standards of OSH compliance in the gastronomic sector. While chains like AmRest meticulously uphold health and safety, ensuring every employee is well-versed in protocols from the get-go, many smaller venues, rich in

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(<sup>54</sup>) *AmRest*, <https://www.amrest.eu/pl> [18 September 2022 ]; *McDonald's*, [25 July 2021].

authenticity, often lag behind. It's not just about visible areas for patrons but the very heart of our operations - the kitchens. The discrepancy isn't merely about size or resources; it's about the inherent values and priorities set by the establishment. Where some view OSH regulations as the backbone of their operations, others see it as a mere tick-box exercise. This dualism isn't just about reputation; it's about the very well-being of both staff and patrons.

Even before a restaurant's launch, a comprehensive health and safety audit is de rigueur. Larger companies often align themselves with voluntary associations dedicated to occupational safety or undergo periodic certification, resulting in certificates attesting to their compliance with specific OSH standards such as Code Alimentarius HACCP or Bureau Veritas<sup>55</sup>.

Some catering companies also opt to integrate Polish and European sanitary safety standards, including HACCP or the ISO 22000:2018 standard. These certifications, although aligning with national or EU law standards, remain voluntary in nature. Occasionally, smaller bars or restaurants may show commitment to meeting these standards, though this is a rarity typically associated with high-end establishments<sup>56</sup>.

The divergence in compliance standards between major catering establishments and their smaller counterparts is marked by pronounced disparities. Notably, employees within larger establishments receive comprehensive training in hazard control and fire safety even before commencing their duties, with periodic refresher courses<sup>57</sup>. Greater scrutiny is directed towards these larger establishments, with more frequent external inspections by public services, along with audits conducted by their corporate headquarters or external evaluators. These stringent measures result in a consistently high standard of compliance with health and safety regulations within larger establishments. In contrast, smaller catering establishments grapple with a less rigorous approach to compliance, leading to a glaring gap in adherence to OSH regulations.

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(<sup>55</sup>) E. Cieslik, A. Koscielny, J. Cieslik, *Ocena znajomości systemu HACCP wśród personelu zakładów gastronomicznych*, in *Journal of Agribusiness and Rural Development*, 2013, 27, 1, 55-60.

(<sup>56</sup>) H. Chen i in., *Food safety management systems based on ISO 22000:2018 methodology of hazard analysis compared to ISO 22000:2005*, in *Accreditation and Quality Assurance*, 2020, 25, 1, 23-37; J. Ejdyś, *System zarządzania bezpieczeństwem i higieną pracy narzędziem kształtowania kultury bezpieczeństwa organizacji*, *ocit.*, 119-171; *Food certification*, <https://certification.bureauveritap.com/certification/food-agriculture> [7 September 2021]; H. Turlejska, *Zasady GHP/GMP oraz system HACCP jako narzędzia zapewnienia bezpieczeństwa zdrowotnego żywności: poradnik dla przedsiębiorcy*, Fundacja Programów Pomocy dla Rolnictwa, 2003; R. Wielgus, *Codex Alimentarius, czyli kodeks żywnościowy. Czy jest obowiązkowy?*, <https://www.bhpex.pl/blog/bezpieczenstwo-zywnosci/codex-alimentarius/> [7 September 2023].

(<sup>57</sup>) *Praca w KFC - BHP*, <https://wizaz.pl/forum/showthread.php?t=310252&page=4> [7 September 2023].

### 4.3 Oversight

The interviewees have reported a conspicuous absence of alternative forms of workplace supervision and monitoring within the gastronomy industry despite the existence of regulatory bodies. While they acknowledge the presence of the National Labour Inspectorate (PIP), none have personally encountered its activities within their workplaces over the past 15 years. This deficiency in PIP oversight extends to employers, who do not perceive any pressure resulting from inspectorate actions. From the perspective of catering establishments, the PIP emerges as a theoretical entity with minimal sway over their day-to-day operations<sup>58</sup>.

At the core of compliance apprehensions in the gastronomy sector lies the ominous acronym: SANEPID. SANEPID represents the district sanitary-epidemiological stations, and the mere mention of it sends chills down the spines of both employees and managers alike. The rationale behind this apprehension is evident – SANEPID inspections wield the authority to bring businesses to a grinding halt. Temporary restaurant closures, coupled with potentially ruinous administrative penalties, loom as perpetual threats. It is the neglect of sanitary, epidemiological, and hygienic regulations that perpetuates this fear<sup>59</sup>.

Nevertheless, paradoxically, despite the omnipresence of this trepidation, actual inspections have become increasingly infrequent in recent years. They tend to materialize primarily at the commencement of a restaurant's operations or in response to customer grievances. This apparent rarity of inspections introduces an element of unpredictability into an already tense atmosphere.

Non-compliance with health and safety regulations can have dire consequences for restaurant management. The most conspicuous repercussion is the imposition of sanctions by SANEPID, which may encompass the immediate suspension of business operations. Notably, SANEPID predominantly focuses on the most critical and blatant infringements, with temporary suspensions predominantly affecting seasonal establishments. However, it is pivotal to underscore that the National Labour Inspectorate (PIP) displays minimal activity and rarely intervenes in cases of OSH rule

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<sup>(58)</sup> M. Sienkiewicz, *Umocowanie organów Państwowej Inspekcji Sanitarnej w obowiązującym systemie prawnym w kontekście utrzymania właściwego poziomu bezpieczeństwa sanitarnego*, in *Opolskie Studia Administracyjno-Prawne*, 2020, 18, 3, 123-125; P. Wojciechowski, *Z problematyki odpowiedzialności administracyjnej i karnej w prawie żywnościowym*, *Przegląd Prawa Rolnego (Poznań)*, 2011, 1, 67-86.

<sup>(59)</sup> M. Ambroziewicz i in., *Meritum - bezpieczeństwo i higiena pracy*, *ocit.*, 143-172, 1112-1115; Ł. Chrzęszcz, *Kontrola i odbiór lokalu przez Sanepid - od A do Z*, <https://www.niepoddawajcie.pl/kontrola-z-sanepidu/> [7 September 2022]; *Co sprawdza Sanepid w Twoim lokalu gastronomicznym?*, <https://gastrowiedza.pl/baza-wiedzy/artukul/co-sprawdza-sanepid-w-twoim-lokalu-gastronomicznym> [7 September 2022]; E. Duchnowska, *Kary i mandaty są za nieprzestrzeganie wymogów Sanepidu*, in *Poradnik Restauratora*, 2019, 08, 36 s.; E. Kedzierski, *Gdy przychodzi Sanepid*, in *Restauracja. Pismo Biznesu Gastronomicznego*, 2015, 4, 46 s.; *Kontrola sanepidu w restauracji*, <https://gastrowiedza.pl/baza-wiedzy/zarządzanie-lokalem/kontrola-sanepidu-w-restauracji> [7 September 2022].



breaches, rendering violations in this domain largely unchecked<sup>60</sup>. An experienced chef and manager of several restaurants in Cracow and Lublin, stresses the fear of SANEPID and the disregard for PIP in such a way:

*As a chef with experience in family restaurants in Lublin and Cracow, I can attest to the fact that when it comes to workplace supervision, the presence of PIP is not present. In my 12 years in the industry, I've never personally witnessed PIP in action, and it seems that my colleagues and managers share this sentiment. The PIP is more of a theoretical entity with little influence on our day-to-day operations.*

*What truly sends shivers down our spines in the gastronomy sector is the mention of SANEPID. The mere thought of a SANEPID inspection can bring a business to a standstill. Temporary closures and hefty penalties hang over us like a dark cloud, all because of the fear stemming from neglecting hygiene regulations.*

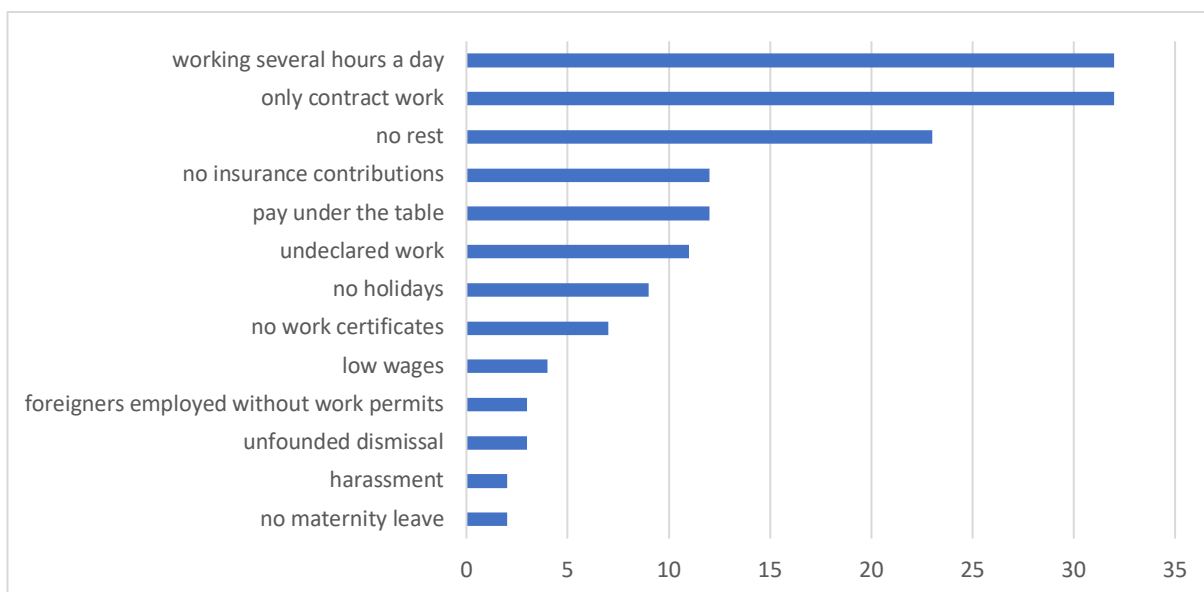
*Ironically, despite this constant fear, actual SANEPID inspections have become rare. They usually happen at the start of a restaurant's operations or in response to customer complaints, making the atmosphere even more unpredictable.*

*The consequences of non-compliance with health and safety regulations are severe, mainly due to SANEPID sanctions. SANEPID mainly focuses on the most egregious violations, often impacting seasonal establishments. However, the PIP remains largely inactive, rarely stepping in when workplace safety or labour law rules are breached, leaving these violations unchecked.*

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<sup>(60)</sup> M. Sienkiewicz, *Umocowanie organów Państwowej Inspekcji Sanitarnej w obowiązującym systemie prawnym w kontekście utrzymania właściwego poziomu bezpieczeństwa sanitarnego*, *op. cit.*, 123-125; P. Wojciechowski, *Z problematyki odpowiedzialności administracyjnej i karnej w prawie żywnościowym*, *op.cit.*, 67-86.

Likewise, external oversight from entities such as the fire department, the police, the Office of Competition and Consumer Protection (UOKiK)<sup>61</sup>, and trade inspection agencies remains inconspicuous within the gastronomy sector. Employees recall no recollection of inspections conducted by these bodies, nor do they harbour any apprehension, fear, or reverence toward them. Management, too, remains unaffected by public authority supervision. Essentially, the presence of these supervisory bodies is but an illusion, with their competences largely unexecuted or unnoticed in daily business operations.



**Figure 4** Main violations of labour law in Polish catering businesses; number of interviewed experts' indications.

Workers in the gastronomy sector routinely grapple with non-compliance with health and safety regulations and violations of working conditions. These grievances encompass issues such as the misapplication of civil law contracts by employers, absence of leave, abrupt terminations, excessive workloads, and employment discrimination. Paradoxically, notwithstanding these grievances, employees are reticent to seek recourse through the National Labour Inspectorate (PIP) or labour courts.

Interviewees stress that bar and restaurant staff possess limited familiarity with labour courts and are disinclined to seek their intervention. The intricacies of court procedures, potential costs, and the high level of commitment required deter employees from pursuing legal avenues. Furthermore, the challenge of accumulating sufficient evidence, coupled with colleagues' reluctance to testify due to concerns about job security, further discourages legal action. Many believe that even if a labour court rules in favour of the aggrieved employee, the employer would retaliate. Moreover, given the

<sup>(61)</sup> *Urząd Ochrony Konkurencji i Konsumentów*, <https://uokik.gov.pl/> [1 October 2023].

transient nature of catering jobs and the prevalence of student workers, engaging in protracted legal battles appears futile.

Nonetheless, confronted with severe violations of health and safety regulations and working conditions, employees wield the potent weapon of immediate termination of employment. Regular reminders to employers regarding health and safety regulations, labour laws, and contractual obligations also carry considerable weight. Management's threats to withhold specific tasks and duties serve as effective individual supervision measures, albeit with some risk to the employee<sup>62</sup>. A former chef from Warsaw restaurants recalls the fight for his labour rights this way:

*In my time working in Warsaw's bars and restaurants, I've seen a disheartening struggles between employers and staff. The frequent breaches of health and safety norms, dodgy contracts, and on-the-spot sackings are all part of the game. And you'd think, with all this, we'd be marching straight to the labour courts? But the truth is, most of us don't. The whole court actions, with its jargon, costs, and whatnot, is a maze we don't want to wander into. Not to mention the constant worry about whether your mate from the bar will stand up with you or stay quiet, fearing for their job. But it's not all doom and gloom. Some of us have managed to turn the tables using the little leverage we have, reminding bosses about the rules now and then. But getting them to truly listen? That takes time, persistence, and a bit of courage, especially when talk of inspections or court cases often ends up with someone losing their job.*

While personal forms of employee supervision may ultimately yield results, they often necessitate months of managerial threats or work disruptions. Ultimately, these methods remain the primary means of ensuring compliance among employers. Threats of sanitary inspections, labour inspections, or labour court cases are frequently met with dismissive responses and the dismissal of non-compliant employees.

#### **4.4 The Need for Change**

A recurring concern among experts interviewed is the notable knowledge gap pertaining to occupational safety and health (OSH) regulations, fire safety, and sanitary standards. Many entrepreneurs, possessing only a surface-level comprehension of these regulatory frameworks, frequently turn to external experts for guidance in navigating the complex landscape of compliance. Regrettably, as businesses evolve, their familiarity with health and safety regulations tends to diminish.

Adding complexity to this issue is the prevailing belief that compliance primarily falls within the purview of more experienced personnel, leaving the responsibility for

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<sup>(62)</sup> M. Dąbrowski, *Rozwiązanie stosunku pracy bez wypowiedzenia przez pracownika z przyczyn dotyczących pracodawcy (Uwagi de lege lata)*, in *Ruch Prawniczy, Ekonomiczny i Socjologiczny*, 1996, 3; I. Radziwon, *Rozwiązanie umowy o pracę z powodu ciężkiego naruszenia podstawowych obowiązków wobec pracownika*, in *Pracownik i Pracodawca*, 2015, 1, 1.

adhering to OSH rules somewhat ambiguous. In many cases, management adopts a hands-off approach, assuming that compliance will somehow materialize independently. This lack of understanding and sporadic commitment to regulations creates fertile ground for potential disasters.

Interview experts mutually mention that the gastronomy industry currently operates without a cohesive system of administrative, judicial, trade union, and private oversight and monitoring. The vestiges of such oversight have proven ineffectual. This situation perpetuates detrimental practices in various areas, including sanitary standards, adherence to labour laws, and contract conditions. Addressing these issues necessitates heightened awareness among employees and more proactive engagement from state supervisory and monitoring bodies.

## **5. Conclusions**

The Polish Hospitality, Restaurant, and Catering (HoReCa) sector grapple with issues of selective compliance when it comes to occupational health, safety, and sanitary rules. Finally, after the whole research process we can conclude the complex landscape of adherence to regulations in this industry, highlighting the stark disparities between rules that are followed for profit and those that are disregarded. While apparent guest satisfaction often dictates which standards are upheld, this compromise leads to a multitude of law violations, long-term customer dissatisfaction, employee problems, and workplace accidents. Prioritizing economic considerations and superficial tranquillity over compliance ultimately proves unsustainable in the long run.

### ***5.1 Employee Engagement***

Employees working in cafes, restaurants, and pubs are particularly enmeshed in the challenges of adhering to OSH compliance. They often witness their employers' failure to enforce legal provisions in this domain, not only concerning themselves but also regarding their patrons and the entire establishment. Paradoxically, they do little to change this situation and, to some extent, even benefit from the appearance of safety while being partially complicit in regulatory violations. Violations of OSH rules occasionally result in negative consequences, such as work accidents, overtime work, social security and health issues, and sporadic fines for non-compliance with sanitary regulations. On rare occasions, employees must resort to asserting their rights in public institutions or labour courts.

### ***5.2 The Complexity of Regulatory Overload***

Both labour and OSH law standards stringently regulate safety, hygiene, and sanitary rules within catering establishments. However, the sheer volume of regulations can overwhelm both catering staff and management. In practice, even the most conscientious, educated, and virtuous restaurateurs and employees find it impossible to

adhere comprehensively to all OSH, sanitary, working conditions, and other safety regulations. Consequently, these rules often go overlooked, forgotten, or simply disregarded. Even the most significant standards tend to be overshadowed by a multitude of legal norms, leading to the inadvertent elimination of non-essential regulations from the gastronomic community's consciousness.

### ***5.3 The Need for Comprehensive Legislation***

It is clear that the current regulatory framework for the Polish HoReCa sector is fragmented, encompassing provisions on tourism, the hotel industry<sup>63</sup>, OSH, and employee regulations. This fragmented approach complicates compliance and oversight. To address this issue, there is a pressing need for a comprehensive law tailored to the specific characteristics of the sector. Such legislation should amalgamate existing provisions while accommodating labour law, administrative law, and EU and ILO legislation. The implementation of a comprehensive law would streamline operations in the HoReCa sector, align regulations with sector-specific needs, and enable efficient verification and supervision of statutory compliance. A unified legal framework would provide clarity and simplicity, with due emphasis on health, safety, and sanitary standards.

### ***5.4 Prioritizing Education and Training***

Education and training initiatives must play a significant role in enhancing compliance in the HoReCa sector. Continuous workplace-based education and training programs are essential, addressing safety, hygiene, labour law, and sanitary regulations. The involvement of sanitary inspectors and labour inspectors in bars and restaurants can be invaluable in demonstrating proper safety practices. Professional workshops, aimed at instructing staff on effective restaurant management and operation, should also be considered. NGOs or industry associations could facilitate these competence-building initiatives using public resources. Real and lasting change can only be achieved by enhancing the skills and knowledge of all stakeholders in the industry.

### ***5.5 Strengthening Supervision and Monitoring***

Effective supervision and monitoring of OSH rules in gastronomic establishments are of paramount importance. This entails enhancing the state supervision system, encompassing labour inspection, trade inspection, and sanitary inspection. Inspectors must conduct frequent visits to various establishments and provide guidance to staff on legal compliance. When necessary, they should not shy

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<sup>(63)</sup> Ustawa z dnia 24 listopada 2017 o imprezach turystycznych i powiązanych usługach turystycznych (Dz. U. z 2020 poz. 2139 z późn. zm.); ustawa z dnia 29 sierpnia 1997 o usługach hotelarskich oraz usługach pilotów wycieczek i przewodników turystycznych (Dz. U. z 2020 poz. 2211).

away from imposing sanctions, including the closure of non-compliant facilities. In some cases, law enforcement and preventive measures become essential when softer approaches prove ineffective. Increasing the number of inspectors in the field, improving their remuneration, and ensuring their independence are vital steps. An effective supervisory and monitoring system is essential to curb pathologies within the industry.

### ***5.6 Empowering Employee and Entrepreneur Oversight***

Authorities should actively encourage employee and entrepreneur involvement in the oversight of catering facilities. However, this effort will only yield results if the prevalence of precarious employment contracts is reduced, and working conditions and salaries are improved. Without these changes, employees will continue to fear repercussions for complying with safety standards, which will hinder the effectiveness of oversight efforts.

At the end we need to highlight that the prevailing issue of non-compliance with health, safety, and sanitary regulations in Polish catering establishments. Compliance tends to be selective, driven by economic benefits, and unfamiliarity with the law among employees and management. The inadequate public supervision further exacerbates this situation, allowing restaurants to operate in relative isolation from objective legal norms. Addressing these challenges requires a comprehensive legislative framework, a focus on education and training, strengthened supervision, and the active involvement of employees and entrepreneurs in ensuring compliance. Only by addressing these issues can the Polish HoReCa sector achieve a safer, more compliant, and customer-friendly environment while meeting the demands of a dynamic and flexible economy.

### ***5.7 Comparative Overview in Poland and Greece***

Analysing the occupational health and safety (OHS) and working conditions in the gastronomy industry reveals distinct differences between Poland and other EU countries, notably Greece. Despite the application of identical international and EU rules across EU nations, national legislations exhibit variations. National laws, while influenced by EU directives, show minor differences between countries like Poland and Greece due to their harmonization with EU standards.

The divergence is more evident in the application of these laws and the day-to-day operations of the gastronomy sector. A key difference lies in the dependency on tourism; the Greek restaurant sector is heavily reliant on tourist seasons, contrasting with the relatively stable, year-round operation of Polish restaurants. This variance significantly influences workplace practices and adherence to OHS standards. Another notable distinction is the efficiency of regulatory oversight. Poland demonstrates greater effectiveness in supervisory services compared to Greece. This difference impacts the enforcement of OHS standards and overall compliance within the gastronomy sector.

Worker expectations and attitudes towards employment conditions also vary between these countries. Polish workers typically expect stable employment with strict adherence to sanitary and OHS standards. In Greece, there is a more noticeable neglect of these standards, both at the national and international levels. While legislative frameworks in both countries are similar, the enforcement and practical implementation of these laws are markedly different<sup>64</sup>.

These contrasts highlight the complex nature of OHS and working conditions in the EU's gastronomy industry. Despite a unified legislative framework, the actual implementation and adherence to these standards differ significantly among member states. These variations are shaped by economic factors, regulatory efficiency, and cultural attitudes towards workplace standards.

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<sup>(64)</sup> G. Ioannou, *Contracting for Work in Tourism and Catering in Greece*, *op. cit.*, 560-582.

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