

Remote Work and Remote Healthcare in Poland



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MAREK
TATAŁA

While digitalization has been advancing in many aspects of human life, the COVID-19 pandemic has accelerated changes in workplaces, trade, doing business, healthcare, education, public administration, and many other spheres. In fighting the disease and addressing challenges related to the pandemic, we were lucky that many technologies were available when the pandemic broke out and *"progress of the last few decades has been so fast (...) that even major setbacks only pushes us back a few years"*¹.

It takes time for legislation to adjust to societal changes. Therefore, it is not surprising that legal systems have lagged behind digitalization. But many policies for years have been preventing or inhibiting technological transitions. In certain professions in Poland remote work was possible before the COVID-19 pandemic. Yet, it was underutilized not only because of work culture, but also due to legal and regulatory barriers. As an example, telehealth, despite technologies that could be used and were developed in the private sector, was almost absent in the Polish public healthcare system.

The pandemic led to many unavoidable changes in work and health protection. It required legal changes, building new corporate culture, educating customers, and organizational adjustments. This article focuses on barriers to remote work and telehealth that explain their underutilization before the pandemic in Poland. It also demonstrates how the coronavirus led to changes to legislation and internal organization of employers and healthcare providers to facilitate remote work and

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provision of health services using modern technologies.

Although many changes that took place in the areas of work and healthcare during the pandemic were needed and sometimes treated as temporary, the legal system in Poland should be modified to enable continuation of remote work and growth of telehealth after the pandemic on a voluntary basis in a flexible legal environment. Temptations to overregulate should be avoided, as flexibility is a far better answer for the needs of employers and employees, healthcare providers, and healthcare users. Moreover, COVID-19 may also permanently alter preferences of some employees and patients regarding remote and digital approach to work and healthcare altogether.

¹ Norberg, J. (2020) "Why 2020 Was the Fourth Best Year in History", [in]: *spectator.co.uk*. Available [online]: <https://www.spectator.co.uk/article/why-2020-was-the-fourth-best-year-in-history>.

REMOTE WORK BEFORE COVID-19: LEGAL BARRIERS AND LOW POPULARITY

According to Eurostat, popularity of remote work in Poland was rather low before the pandemic and slightly below the EU average. Further, the percentage of people who usually worked from home in Poland was also relatively stable between 2012 and 2019 [See: Figure 1]. It was the coronavirus that led to radical changes in some workplaces. In many places where people had to visit the office every day, employees needed to start working remotely; even parts of public administration, usually the most

conservative towards non-traditional working arrangements, moved towards remote work. There were many reasons behind low interest in remote work in Poland, among them were legal barriers.

The only regulated form of remote work in the labor code in Poland up to 2020 was *telework (telepraca)*. It is defined as work performed on a regular basis with the use of electronic communication, away from the premises of an employer². It does not, however, apply to situations where an employee occasionally works remotely. A telework arrangement is based on a mutual agreement of both parties.

As telework is performed from a remote location, there are some limitations regarding employer's responsibility for health and safety, as well as supervision on how work is conducted. Until June 2018, employers in Poland needed a separate agreement with trade unions or regulations on telework decided with employee' representatives, even if only a few employees were to participate in teleworking. Apart from cultural reasons (including trust and management methods), these and other formal requirements are usually given as reasons why application of telework has been limited³. It was rightly noticed by P. Wróbel and D. Jendza that *"while being a flexible form of employment [telework] has been functioning poorly within inflexible legal regulations"*⁴.

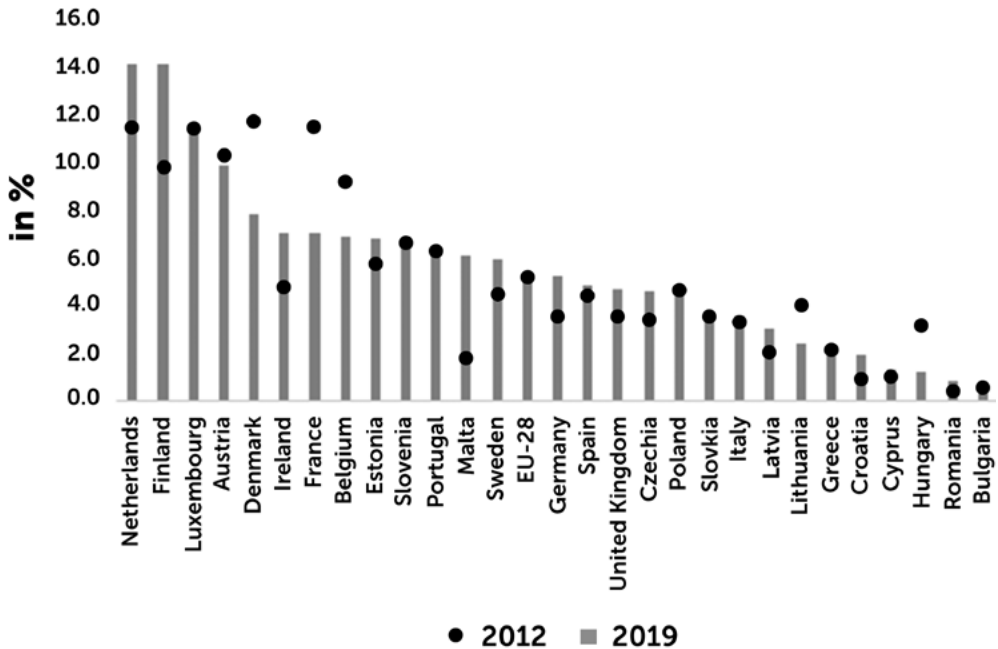
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² Czarzasty, J. (2007) *Telework in Poland*. Available [online]: <https://www.eurofound.europa.eu/publications/article/2007/telework-in-poland>

³ Jezierska, K. and A. Totwińska (2020) *Remote Work – Legal and Tax Regulations*. Available [online]: <https://www2.deloitte.com/pl/pl/pages/doradztwo-prawne/articles/newsletter-strefa-pracodawcy-podatki-i-prawo/praca-zdalna-a-regulacje-prawne-i-podatki-obecnie-i-w-przyszlosci.html> [in Polish]

⁴ Wróbel, P. and D. Jendza (2018) *Teleworking – Legal Regulations and Labor Market Practice*. Available [online]: https://www.researchgate.net/publication/329649214_Telepraca_-_regulacje_prawne_a_praktyka_ryнку_pracy [in Polish]

Figure 1: Employed Persons Working Usually From Home as a Percentage of the Total Employment in 2012 and 2019



Source: Eurostat (2021)

It is, therefore, no surprise that a less formal way of work has been developing in parallel to telework. It has often been called *home office*. There is no formal definition of *home office* in Polish legislation and, before the pandemic, it was based on arrangements between employees and employers. Usually an employee combines *home office* with office work when the latter is needed. The legal arrangements created at the beginning of the pandemic were closer to the *home office* approach to remote work existing in the past.

REMOTE HEALTHCARE BEFORE THE PANDEMIC: GROWING BUT UNDERUTILIZED

The COVID-19 pandemic has revolutionized access to healthcare in many places. From remote communication with doctors

and online prescriptions, to much more sophisticated examples like smartphone

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diagnosis, remote respiratory monitoring or digital stethoscopes⁵.

Further, when we look at Medicare, a government health fund in the United States, it increased reimbursements of virtual visits from 11,000 a week before the pandemic to 1.3 million visits a week during the first lockdown⁶. Similar trends have been observed in many other countries, including the EU member states, although the legal systems in Europe often lacks legal provisions regulating telemedicine, and the legalizations have not kept up with innovative technologies⁷.

Popularity of remote healthcare has been growing in Poland for many years, but mostly in the private sector. Its use in public healthcare had been limited before the pandemic. Changes in legislation in 2015⁸ adjusted healthcare to technological advancements and enabled the organization of remote medical consultation, but telehealth services financed with the public healthcare insurance (NFZ) were limited⁹.

⁵ StartUs Insights (2020) *7 Top Remote Healthcare Solutions For The Coronavirus Pandemic*. Available [online]: <https://www.startus-insights.com/innovators-guide/7-top-remote-healthcare-solutions-for-the-coronavirus-pandemic/>

⁶ Economist Intelligence Unit (2020) *Digital Disruption: Risks and Opportunities in the Shift to Online*. Available [online]: https://www.eiu.com/public/topical_report.aspx?campaignid=digitalrisks20

⁷ Michalopoulou, I., Tatsi, V. (2020) *COVID Puts the Legal Spotlight on Telemedicine: Do Not Check This Box Lightly*. Available [online]: <https://www.ibanet.org/Article/NewDetail.aspx?ArticleUid=881C2D2E-5F51-4A29-9E09-704344F56B34>

⁸ Legal Act: *Ustawa z dnia 9 października 2015 r. o zmianie ustawy o systemie informacji w ochronie zdrowia oraz niektórych innych ustaw*. Available [online]: <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=wdu20150001991> [in Polish]

⁹ Pochrząst-Motczyńska, A. (2018) *Telemedicine – A Second Step Is Necessary for Development*. Available [online]: <https://www.prawo.pl/zdrowie/telemedycyna-konieczny-drugi-krok-by-zaczela-sie-lepiej-rozwijac.261986.html> [in Polish]



POPULARITY OF REMOTE HEALTHCARE HAS BEEN GROWING IN POLAND FOR MANY YEARS, BUT MOSTLY IN THE PRIVATE SECTOR

Important legal improvements that have been made since then include introduction of e-sick leaves (*e-zwolnienie*)¹⁰ and e-prescriptions (*e-recepta*)¹¹ in 2018-2019. Former unavailability of these digital tools hindered the development of remote healthcare¹².

Only since late 2019, general (family) physicians have been able to formally arrange remote consultations and update patients'

¹⁰ Legal Act: *Ustawa z dnia 10 maja 2018 r. zmieniająca ustawę o zmianie ustawy o świadczeniach pieniężnych z ubezpieczenia społecznego w razie choroby i macierzyństwa oraz niektórych innych ustaw*. Available [online]: <http://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20180001150> [in Polish]

¹¹ Legal Act: *Ustawa z dnia 1 marca 2018 r. o zmianie niektórych ustaw w związku z wprowadzeniem e-recepty*. Available [online]: <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20180000697> [in Polish]

¹² Telemedycyna Grupa Robocza (2018) *How to Effectively Use the Potential of Telemedicine in the Polish Healthcare System?*, p. 11-12. Available [online]: http://telemedycyna-raport.pl/api/file/events/rtgr/DZP_raportTGR%20raport-www.pdf [in Polish]

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medical documentation based on telehealth services as part of the guaranteed services in the field of primary care in the public system. In the past, they sometimes talked to patients over the phone, but usually

this mode of communication was adopted only in certain emergency situations (but not requiring visit in a hospital) and when patients wanted to consult results of blood or urine tests to adjust therapy¹³. Support for telehealth has been justified by the Deputy Minister of Health, Janusz Cieszyński, as “one of the activities leading to the improvement of the efficiency and accessibility of the health care system”¹⁴. Therefore, one could say that the Polish legal system has been to some extent prepared for the acceleration of use of telehealth due to the coronavirus pandemic.

HOW THE COVID-19 VIRUS REORGANIZED WORK AND HEALTHCARE?

The government had to rapidly adjust labor market regulations and healthcare to extraordinary conditions. New regulations of remote work were created, as pre-existing telework was an inadequate tool to respond to challenges related to COVID-19. Telehealth services, growing in the past in the private sector, became more frequently utilized in public healthcare. Therefore, we have been observing a growing number of users of remote work and remote healthcare, and opinions on these new tools have been collected.

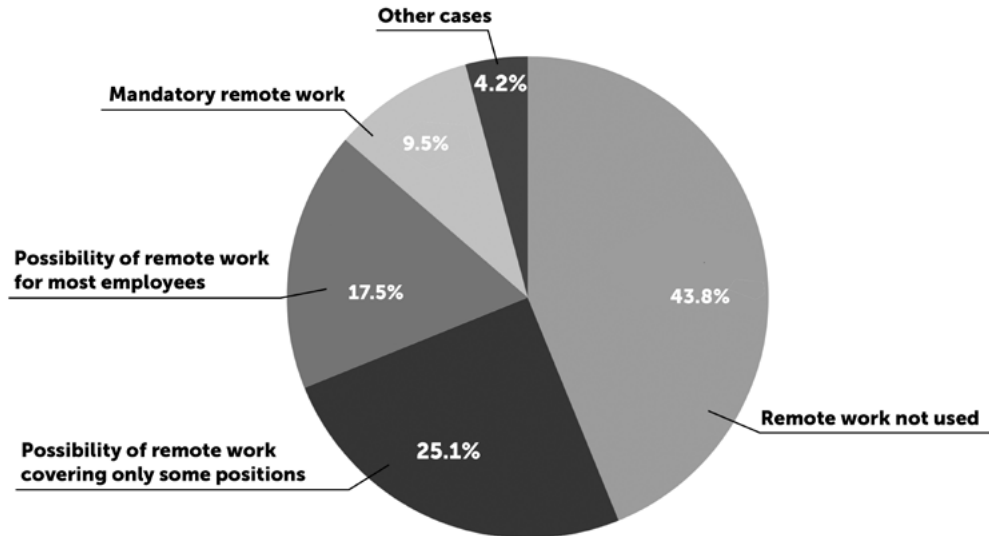
WORK

Soon after the outbreak of the pandemic, the government of Poland decided to regulate remote work. It was done in order to limit the number of people present in workplaces and reduce social mobility

¹³ Pochrzęst-Motczyńska, A. (2019) *Telehealth Will Not Be a Relief for Healthcare System*. Available [online]: <https://www.prawo.pl/zdrowie/porady-przez-telefon-od-5-listopada-2019-r-mozliwe-juz-u-lekarza.495714.html> [in Polish]

¹⁴ Minister of Health (2019) Answer to a parliamentary question, p. 4. Available [online]: http://orka2.sejm.gov.pl/INT8.nsf/klucz/ATTBH6GTU/%24FILE/i33939-o1.pdf#xd_co_f=NzEzMGM2NzctMmYxMS00ZjcxLTkwZEtNzIzYzhhMTC2NjUw~ [in Polish]

Figure 2: Answers to the Question: "Has Remote Work Been Used in Your Workplace Due to the Pandemic?"



Source: Polish Economic Institute (2020)

(e.g. using public transportation). "Remote work is actually the safest at the moment," recommended Polish Minister of Health Łukasz Szumowski in March 2020¹⁵.

Moreover, in comparison to telework described in the previous section, during the state of the pandemic and three months after it, employers could mandate employees to work remotely using temporary legislation to respond to COVID-19. As there were no specific regulations regarding many areas of remote work, some employers decided to create their own internal rules¹⁶. This option is a much more flexible and

efficient way to organize relations within a company regarding remote work, as it takes into consideration characteristics of the particular business, like their size or type of work.

According to a survey of 246 companies using remote work conducted by EY in November 2020, 52% of businesses in Poland had internal rules regarding working remotely, with 33% intended to introduce them¹⁷. The most popular by far was the hybrid model in which part of work is done remotely and part in the office, as 67% of the surveyed enterprises selected this mixed approach. What is also interesting is that in 42% of companies both employers and

¹⁵ Leśniak, G. J. (2020) *Special Act on the Coronavirus Must Be Changed – There Are Problems with Remote Work*. Available [online]: <https://www.prawo.pl/kadry/specustawa-w-sprawie-koronawirusa-do-zarzenia-a-co-z-praca-zdalna.498579.html> [in Polish]

¹⁶ Jezierska, K. and A. Totwińska (2020) *supra* note 3.

¹⁷ EY (2020) *Organization of Work During a Pandemic. Challenges for HR in 2021*. Available [online]: https://www.ey.com/pl_pl/news/2021/01/sposrod-firm-ktore-stosuja-rozwiazania-pracy-zdalnej [in Polish]



IN A VAST MAJORITY OF POLISH COMPANIES, REMOTE WORK WAS EITHER NOT ENABLED DURING THE PANDEMIC OR WAS LIMITED TO SELECTED POSITIONS

employees agreed on working at home. In 29% of cases, remote work was a result of a unilateral decision of superiors. Although temporary pandemic-related legislation does not require the business to consult introduction of remote work with employees, many employers in Poland still decided to make dedicated agreements with their employees on this matter.

Another piece of research from July 2020 shows limitations in the use of remote work during the pandemic. Respondents of the survey from the report by the Polish Economic Institute indicate that in only 17.5% of workplaces working remotely was used for the majority of employees, and in 9.5% of companies for all members of staff¹⁸. In

a vast majority of Polish companies, remote work was either not enabled during the pandemic or was limited to selected positions [See: Figure 2]. It is not surprising as there are only some professions where not being present in a workplace is possible. The authors of the report emphasize that remote work is limited to “*people working with computers, in the service sector, and in workplaces with a high use of digital technologies*”¹⁹.

The data from the Polish Central Statistical Office (GUS) show that popularity of remote work was related to stages of the pandemic. While at the end of March 2020, 11% of participants of the labor market surveys worked remotely, this measure dropped to 10.2% at the end of June, and to 5.8% at the end of September²⁰. Similar changes are visible in the results of Polish equivalent of the European Labor Force Survey (BAEL). The number of people working from home changed from 14% in March 2020, 13.1% in June, to 6.8% in September²¹. It will be interesting to see how these measurements were affected with the second wave of the pandemic in Poland in the last quarter of 2020.

New, flexible legal arrangements enabling remote work – similar to *home office* existing before COVID-19 – have been present in the legal system for almost a year, but they will cease to function after the

¹⁹ Ibid.

²⁰ GUS (2020) *The Impact of the COVID-19 Epidemic on Selected Elements of the Labor Market in Poland in the Third Quarter of 2020*. Available [online]: <https://stat.gov.pl/obszary-tematyczne/rynek-pracy/popyt-na-prace/wplyw-epidemii-covid-19-na-wybrane-elementy-rynku-pracy-w-polsce-w-trzecim-kwartale-2020-roku.4.3.html> [in Polish]

²¹ GUS (2020) *Information on the Labor Market in the Third Quarter of 2020* (Final Data, BAEL). Available [online]: <https://stat.gov.pl/obszary-tematyczne/rynek-pracy/pracujacy-bezrobotni-bierni-zawodowcy-wg-bael/informacja-o-rynku-pracy-w-trzecim-kwartale-2020-dane-ostateczne.12.44.html> [in Polish]

¹⁸ Polish Economic Institute (2020) *Monitoring the Digital Economy: Three Quarters of Accelerated Transformation*, pp. 25-27. Available [online]: https://pie.net.pl/wp-content/uploads/2020/11/PIE-Raport_Monitoring_cyfrowy.pdf [in Polish]



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pandemic. Therefore, discussions about the future of remote work in Poland have already started. The list of questions is long:

Who should be responsible for health and safety? How do we monitor employees' performance? Should employees be compensated for resources used at home, like their personal electronic devices, Internet connection or even electricity? Although financial compensation might be possible, it remains unclear how they will be treated by the tax administration and how calculations of a fee for resources used at home for remote work will be done.

REMOTE HEALTHCARE

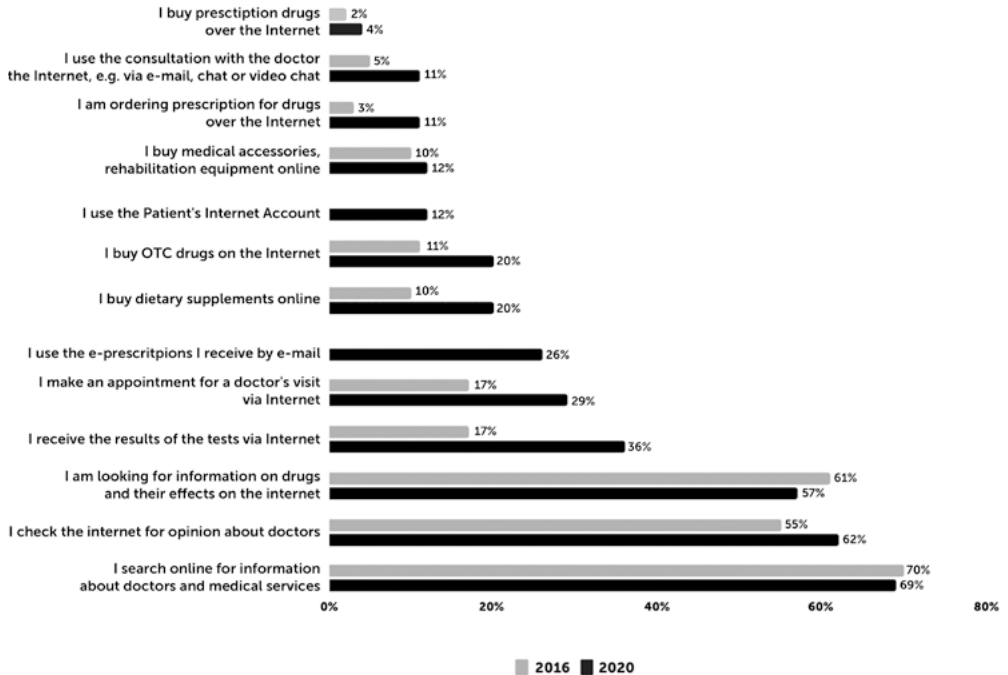
Just like in other countries, the COVID-19 pandemic has been a significant undertaking for the Polish healthcare system, and together with infectious characteristics of the virus, it has all contributed to accelerated development of telehealth and digitalization of healthcare.

Remote healthcare services are one of the responses to minimize social mobility and gatherings of people in closed spaces. Therefore, the Ministry of Health in Poland emphasized that during the pandemic *"the teleconsultation is treated as a fully-fledged medical examination"* to encourage patients to use this method of consulting doctors, if possible²².

When analyzing opinion polls on popularity of online search for medical information and the use of digital technologies in healthcare from 2016 and 2020 in Poland, one may observe the progress in many areas during the pandemic [See: Figure 3]. Receiving test results online, making appointments with doctors via Internet, and e-commerce in OTC drugs became much more popular during the pandemic than four years earlier. Purchases of prescription

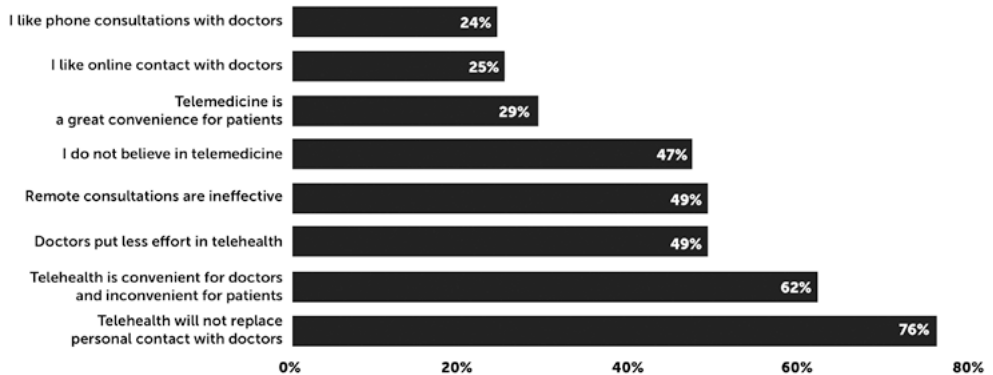
²² Healthcare Market Experts (2020) *Will the Coronavirus Cause a Telemedicine Boom in Poland?*. Available [online]: <https://healthcaremarketexperts.com/en/news/will-the-coronavirus-cause-a-telemedicine-boom-in-poland/>

Figure 3: Popularity of Online Healthcare in Poland in 2016 and 2020



Source: CBOS (2020)

Figure 4: Opinions on Telemedicine in September 2020



Source: ARC Rynek i Opinia (2020)

drugs online doubled – from 2% to 4%²³. While e-prescriptions finally replaced paper documents in early 2020, it is still not possible to order prescribed drugs online with delivery to home address, and pharmacies have to be visited to complete a transaction.

Surveys by CBOS from 2016 and 2020 also show growth in online consultation with doctors, like video chats or e-mail exchanges – from 5% to 11%. Nevertheless, it only includes communication via Internet, whereas telehealth is a much broader category in which the main communication tool is, at least for now, the phone. Other research shows that during the pandemic 49% of respondents had a contact with a doctor using a phone (and 5% using the Internet)²⁴. The same opinion poll indicates that around half of respondents are not satisfied with telehealth [See: Figure 4]. Doctors were accused of putting less effort in these services, which, according to the participants of the survey, might be more convenient for them than for patients.

While these results may not look good from the perspective of telehealth, they should be interpreted with caution. As growth of telemedicine was to a great extent given, due to the coronavirus, it may also reflect that some doctors and the entities, especially in the public healthcare, where telemedicine was not as well developed, as was the case of private healthcare providers, were not ready for this new method of work. Moreover, the results may reflect a general fatigue with doing things online and in a remote way during the pandemic. Nevertheless, another survey found that



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over 72% of Poles indicated telemedicine as the safest form of medical consultation during the pandemic²⁵.

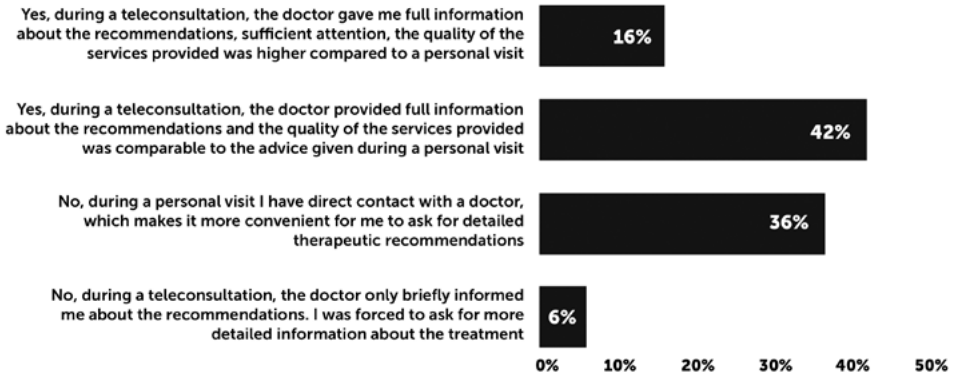
The criticism of telehealth should also signal that the balance between telehealth and traditional services has to be maintained. Especially in the public healthcare system, the rules regarding remote consultation in times of a pandemic should be transparent. Otherwise, patients may think

²³ CBOS (2020) *Health Online*. Available [online]: https://www.cbos.pl/SPISKOM.POL/2020/K_100_20.PDF [in Polish]

²⁴ ARC Rynek i Opinie (2020) *Poles Reluctant to Use Telemedicine*. Available [online]: <https://arc.com.pl/Polecacy-niechetni-telemedycynie-blog-pol-1601547987.html> [in Polish]

²⁵ BioStat (2020) *Patients During the Coronavirus*. Available [online]: <https://www.biostat.com.pl/pacjenci-w-czasie-koronawirusa.php> [in Polish]

Figure 5: Answers to the Question: "Is the Quality of Medical Advice Provided During Teleconsultation Comparable to the Quality of Advice Given by a Doctor During Personal Visits?"



Source: NFZ and the Ministry of Health (2020)

that the telehealth is only used due to the convenience of medical personnel and this kind of bad image may have a long-term detrimental impact on remote healthcare, which should stay with us in the future.

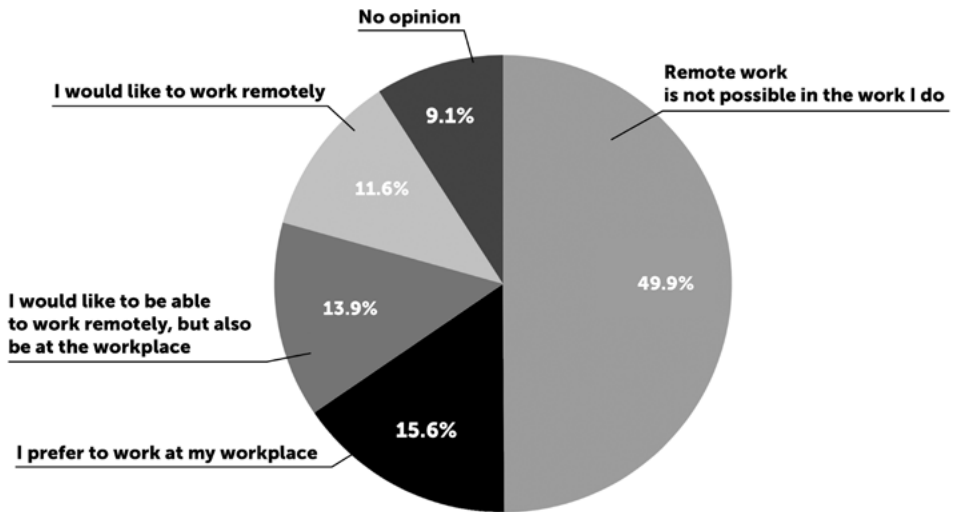
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72% OF POLES INDICATED TELEMEDICINE AS THE SAFEST FORM OF MEDICAL CONSULTATION DURING THE PANDEMIC

Furthermore, the abovementioned surveys were conducted on representative groups of Poles, including people who did not have any personal experiences with telehealth. In different research conducted by the Polish public health insurer (NFZ) and the Ministry of Health, among 13,961 users of primary healthcare during the pandemic – including over 80% patients, who used telehealth, – the assessment of remote medical consultations was better²⁶. Among many questions asked in the survey participants were asked to rate how likely they were to recommend using remote healthcare to close friends or relatives (using a scale of 1-10). The Net Promoter Score of 33 is assessed as a good result, as it indicates that there were far more happy customers of telemedicine

²⁶ Ministerstwo Zdrowia and NFZ (2020) *Report on the Satisfaction Survey of Patients Using Telehealth from a Primary Healthcare Doctor in the Period of COVID-19 Outbreak*. Available [online]: https://www.nfz.gov.pl/download/gfx/nfz/pl/defaultaktualnosci/370/7788/1/raport_-_teleporady_u_lekarza_poz.pdf [in Polish]

Figure 6: Answers to the Question: "Would You Like to Work Remotely?"



Source: Polish Economic Institute (2020)

than unhappy ones²⁷. Almost 58% of remote healthcare users declared that the quality of services was either better or the same as with traditional visits. Over 92% of patients claimed that the problem which they consulted with the doctor has been solved.

What is interesting in this survey is that over 33% of participants belonged to the age group 46-60, and around 35% were older than 60. Therefore, the authors of the study concluded that *"the emerging concerns that the elderly will not be able to cope with remote healthcare and that it will be unavailable to a wide range of patients have not been confirmed in the study"*²⁸.

²⁷ Retently (2020) *What is a Good Net Promoter Score?* (2020 NPS Benchmark). Available [online]: <https://www.retently.com/blog/good-net-promoter-score/>

²⁸ The Polish Ministry of Health and NFZ (2020) *supra* note 26, p. 20.

DIGITAL AND REMOTE FUTURE: WHICH CHANGES SHOULD STAY WITH US FOR LONGER?

While many hardships related to the pandemic lead to questions of when we will return to *normal times*, the answer from the perspective of work and healthcare seems to be *never*. COVID-19 accelerated changes that had been happening due to technological developments and removed some barriers that were in the past difficult to overcome due to cultural reasons, *status quo* bias, and opposition of some groups, like public administration, trade unions or some members of medical professions.

REMOTE WORK

The provisions on remote work have been discussed for weeks by members of the Social Dialogue Council in Poland, which is a forum for a debate between employers, employees, and the government, where the employers' and employees' sides are represented by representative organizations.



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So far, the only agreement in the Council is the removal of the provisions on teleworking²⁹. As it was discussed in one of

²⁹ Leśniak, G. J. (2021) *Remote Work Will not Soon be Regulated in the Labor Code*. Available [online]: <https://www.prawo.pl/kadry/praca-zdalna-jakie-sa-ustalenia-partnerow-spoecznych-i-kiedy.505241.html> [in Polish]

the previous sections, telework has been an inflexible and extensively formal tool, so it should be gone (with some smooth transition of people using telework into new ways of doing remote work). It is also obvious that a new model of remote work should not be just a copy of telework with some minor adjustments.

The views on the future of remote work in the Polish labor code differ. For example, trade unions would like to regulate compensation for all expenses related to remote work – from equipment to electricity and maybe even part of housing rent. They also oppose a hybrid model in which part of the work is done at home and at part at work on the same day³⁰. On the other hand, employers prefer to implement only general legislation to enable flexibility and create internal rules of remote work within companies.

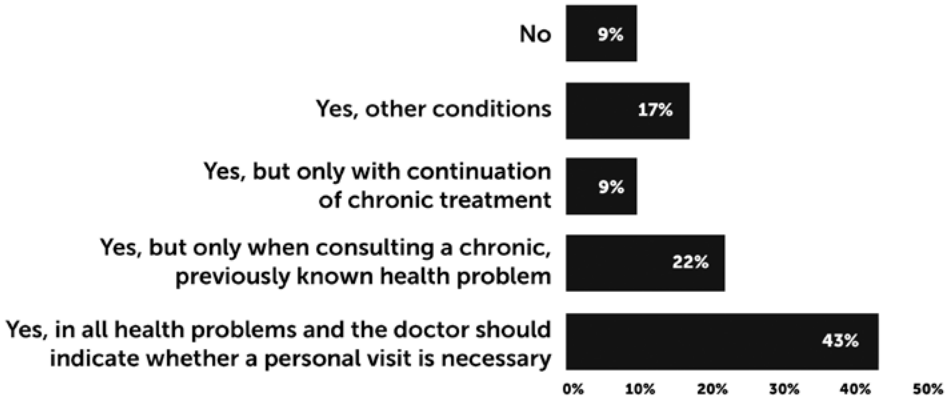
In places with trade unions, i.e. in larger sectors, they will still be able to participate in these intra-company arrangements. The rules that are in force during the pandemic, which are general and flexible, should work as potential inspiration for future solutions. Employers emphasize that what is needed is *“a fresh approach to legal and labor relations, with particular emphasis on the social and technological changes that have occurred in recent years, which have become clearly visible during the pandemic”*³¹.

What is also important is to understand connections between different parts of the labor code in Poland. Therefore, some provisions that regulate traditional work are not suitable for remote work. For example,

³⁰ Ibid.

³¹ *Puls Biznesu* (2021) “The Entrepreneurship Council Calls for the Regulation of Remote Work in a Flexible Way”. Available [online]: <https://www.pb.pl/rada-przedsiębiorczosci-apeluje-o-uregulowanie-pracy-zdalnej-w-elastyczny-sposob-1108301> [in Polish]

Figure 7: Answers to the Question: “Do You Think That Telemedicine/Video Consultation Should Be One of The Channels of Contact With A General (Family) Physician?”



Source: NFZ and the Ministry of Health (2020)



THE VIEWS ON THE FUTURE OF REMOTE WORK IN THE POLISH LABOR CODE DIFFER

working time records are an unjustified burden for both employers and employees when work is done remotely. Flexibility in terms of mixing working hours and breaks should be enabled. There might be people who would like to work for five hours then have a few hours of free time, and then return for three hours to remote work. Moreover, employees should not be forced to declare only one place for doing remote

work if their employers do not object. What matters for employers is also possibility to keep all work-related documentation only in a digital form.

Of course, remote work is not for everyone and it will not replace traditional labor relations. At the end of July 2020, almost 50% of respondents claimed that it is not possible to do their work remotely, while almost 16% would prefer to work at their offices. Among people who can and would like to work remotely, a hybrid model was slightly more popular (13.9%) than a complete switch to remote work (11.6%)³².

Furthermore, implementation of remote work into the Polish labor code is only a short-term solution. In the future, the whole labor code should be rewritten and adjusted to the new reality of working and doing business. Professor Tomasz Rostkowski of SGH Warsaw School

³² Polish Economic Institute (2020) *supra* note 18.

of Economics indicated “the new reality shows even more clearly that the current labor code is only suitable for rubbish” as “it was created in the seventies and was designed for the needs of companies that produced standardized products on the conveyor belt. This is completely out of step with the digital reality”³³.

At the moment, Poland ranks 27th out of 41 EU and OECD members in the Employment Flexibility Index³⁴. The popular emigration destinations of Poles, like Great Britain and Ireland, as well as the Czech Republic, are high at the top of the ranking, so making the regulation of employment contracts more flexible is within the reach of Poland³⁵. Implementation of remote work should not further weaken low flexibility of labor relations in Poland, and the whole system should be improved by radical reforms of the labor law, adjusting it to new realities of markets, customer preferences, and digitalization.

REMOTE HEALTHCARE

Implementation of remote healthcare has been facilitated by important reforms from the previous years including the introduction of e-sick leaves, e-prescriptions, and creation of the Patient Internet Account. In 2021, the system was also extended by adding e-referrals to specialist doctors or selected examinations (*e-skierowanie*). This digitalization of the public healthcare system should be continued. Further

³³ Future Business Institute (2020) *Remote Work – A Revolution That Has Happened. Now It’s Time For Changes*, p. 12. Available [online]: http://www.pte.pl/pliki/2/36/Future_Business_Institute.pdf [in Polish]

³⁴ LFMI (2019) *Employment Flexibility Index 2020*. Available [online]: <https://www.llri.lt/wp-content/uploads/2019/12/Employment-flexibility-index2020-3.pdf>

³⁵ Trzeciakowski, R. (2020) *Employment Flexibility Index 2020: One Size is Not for Everyone*. Available [online]: <https://for.org.pl/pl/a/7464,komunikat-1/2020-indeks-elastycznosci-zatrudnienia-2020-jeden-rozmiar-nie-jest-dla-wszystkich> [in Polish]



THE RULES THAT ARE IN FORCE DURING THE PANDEMIC, WHICH ARE GENERAL AND FLEXIBLE, SHOULD WORK AS POTENTIAL INSPIRATION FOR FUTURE SOLUTIONS

developments may include video conversations and use of domestic testing devices that can share medial information with the doctor. While a discussion about financing of public health is beyond the scope of this article, it seems that the future legal changes should include implementation of the basis for broader financing remote healthcare services via the public insurer (NFZ) contracting.

While opinions on remote healthcare during the pandemic were mixed, it is obvious that these services should stay with us after the pandemic, especially in public healthcare. It will increase flexibility and may improve availability of services. The survey conducted among users of remote

healthcare and general physicians in primary healthcare shows that a vast majority (43%) would like to continue this type of medial consultation [See: Figure 7]. 22% of patients indicated that it should be limited to people with whom the doctors are already familiar and 9% answered that remote healthcare should only be used in the case of treatment of chronic diseases.

What must be introduced are transparent rules regarding the use of telehealth, especially in the public sector. In the private sector, when a customer claims that the healthcare provider overuses telemedicine, they can switch providers. We can also imagine private providers that will specialize only in remote healthcare. In public healthcare, the choice is much more limited, so it is why some general rules might be required. On the one hand, after COVID-19, the use of remote healthcare should be voluntary. Still, incentives might be created for people who do not need an in-person visit to use remote healthcare. Moreover, while



WHAT MUST BE INTRODUCED ARE TRANSPARENT RULES REGARDING THE USE OF TELEHEALTH, ESPECIALLY IN THE PUBLIC SECTOR

the pandemic unintentionally promoted remote healthcare, further promotion of these tools might be needed in the future and can be done by both public and private providers.

CONCLUSIONS: MORE FLEXIBILITY AND DIGITALIZATION

The outbreak of the pandemic affected many aspects of human life, including work and healthcare.

Before COVID-19, the rules regarding remote work in the Polish labor code were inflexible, which made this type of work unattractive. The alternative to regulated *telework* were *home office* arrangements based on internal rules of employers. The pandemic-related laws introduced remote work in a relatively flexible way. While these solutions are only temporary, some permanent changes should be made:

1. **Current regulations** regarding so-called telework should be eliminated from the labor law and fully replaced by new rules regarding remote work.
2. **New regulations** on remote work should enable a high level of flexibility in arranging labor relations between employers and employees – from full remote work to various hybrid models. Labor code should only include some general rules while specific rules should be decided at a company level.
3. **Remote work should not be hindered by some other parts of the labor law** that were created for different labor market relations of the 20th century. This is why, after the introduction of flexible remote work arrangements, more general reforms of the labor code should take place, so that Poland improves its position in the Employment Flexibility Index.



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The Polish legal system of healthcare was better prepared to the pandemic than the labor code thanks to the introduction of various e-tools – like e-prescriptions or e-sick leaves, – just before COVID-19. Moreover, remote healthcare services have been developed in the private sector for years with very limited presence in the public healthcare system. The use of telemedicine might be continued after the pandemic and some measures can be taken to facilitate other provisions of remote healthcare:

1. **Digitalization of the public healthcare system should be continued**, based on best practices from the private sector. Further developments may include video conversations and use of domestic testing devices that can share medical information with our doctor.
2. **Financing of telemedicine services** via public insurer contracting should be broadened.

3. **Transparent rules for the use of telemedicine in public healthcare should be implemented** and incentives for patients to select telehealth instead of a traditional visit, when possible, might be created.
4. **Both private and public healthcare providers should continue promotion of remote healthcare services** and respond to accusations of their overuse by doctors due to their own convenience during the pandemic.
5. **Online purchases and delivery to home addresses of prescribed drugs** should be enabled.

Finally, in Poland, ICT and other digital technologies have been important for work and healthcare during the pandemic, and regulations should not inhibit digitalization and discoveries of new methods of providing medical assistance or arranging labor market relations. Best practices from the private sector, which has been more advanced in the use of remote work or telehealth can also be an inspiration for public entities, including public healthcare or administration. The post-coronavirus future will be even more digital.



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