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Policy Brief

Relations between immigration and labour policies.

The Role of the State Labour Inspectorate in Preventing Irregular Employment of Migrant Workers in Poland.

**Authors: Katarzyna Rakowska, Agnieszka Fihel,
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Introduction

In recent years, public debate in Poland on migration has focused on illegal migration and national security. However, **the challenge of irregular migration, understood as undocumented entry or residence in the country, is marginal in Poland. The majority of migrants in Poland are legally residing workers who fill gaps in the Polish labour market, including the farm to fork sector.** Their precarious status is linked to their position as workers, characterised by a lack of stable contracts and limited social security, or employment not in compliance with the applicable regulations on the employment of migrant workers. Below, **we address issues related**

to a new proposal for an amendment to the Act on the State Labour Inspectorate regarding the prevention of abuse of civil law contracts and their potential impact on the situation of irregular migrants in Poland. The Policy Brief addresses national decision-makers and builds on interviews with stakeholders (representatives of business, government, and public institutions) as well as two workshops held at the Centre of Migration Research in the University of Warsaw in June and September 2025 with representatives of business, employers' associations, trade unions, the State Labour Inspectorate (SLI), and legal experts.





Background and provisions of the proposed bill

In September 2025, the amendments to the law governing the State Labour Inspectorate (SLI) were proposed to allow SLI to administratively reclassify misused civil law contracts (including B2B contracts) as labour contracts. This measure aims to address the abuse of such contracts in alignment with the National Recovery and Resilience Plan (KPO). **The proposed law grants SLI the authority to administratively convert a civil law relationship into a labour law relationship when work is performed under the supervision, at a place and time specified by the employer. Once made, this decision is immediately binding, triggering all the rights and obligations of an employment contract: proper pay, holiday entitlements, documentation, and the full package of taxes and social security**

contributions, also retroactively. This competence is assigned to District Labour Inspectors (Okręgowi Inspektorzy Pracy), not to the inspectors responsible for inspecting an employer. The administrative decision may be appealed, first to the Chief Labour Inspector, and then to a labour court. This will shift the burden of proof from the State Labour Inspectorate to the employer.

It is worth mentioning here that there are no sectoral collective bargaining negotiations or sectoral collective agreements in Poland. Strengthening labour inspections will therefore contribute to improving working conditions in all sectors, including the farm-to-fork sector.

Proposed Law's limitations

Labour Inspectorate's limited action

Currently, if SLI determines that a civil law contract constitutes an employment relationship, it can issue a statement or an order to alter the legal basis of work, file a lawsuit with the labour court to establish an employment contract, or initiate minor offense proceedings. However, according to the memorandum on the proposed law, these measures are not sufficiently effective. **Statements and orders issued by**

SLI are not administrative decisions and, therefore, they lack authoritative power.

Controlled employers are only required to inform SLI about the implementation of post-inspection recommendations; however, non-compliance does not result in negative consequences for the employer.

As stated in the memorandum, current legal instruments in combating the widespread issue of abusing civil law contracts are insufficient. While SLI can currently impose





fines in minor offense proceedings, the classification of a civil law contract as an employment contract by an inspector does not alter the legal nature of the relationship between the employer and the worker. SLI can fine the employer, but cannot enforce changing the contractual relationship. Besides fines, the SLI has the right to bring lawsuits to establish an employment relationship, which is rarely used due to the time-consuming nature of court proceedings, the risk of losing the case, and the overall protracted nature of court proceedings. In fact, as pointed out by SLI representatives in interviews and during workshops, SLI inspectors do not file lawsuits to establish an employment relationship because in the previous practice, courts not only considered the factual findings of the circumstances of the work performed (supervision, place and time of the work), but also assumed the equality of the parties under the contract and therefore considered the employee's will. In 2024, labour inspectors filed 24 claims on behalf of 28 persons, and during that year, the court established an employment relationship in only 4 cases, with 15 cases still pending¹. The marginal use of this prerogative necessitates a more effective and less time-consuming supervisory legal measure.

¹ In 2 cases, the parties reached a settlement, and in 3 cases, the court discontinued the proceedings (PIP 2025).

Migrant workers' over-exposure

The research conducted within the DignityFIRM project shows that **civil law contracts pose a particular challenge for migrant workers. Although civil law contracts are also offered to native workers, migrants are more likely than Poles to work under such contracts.** For example, in 2024, among all documents legalising migrants' work in Poland (that is, among all issued declarations on entrusting work to a foreigner, notifications about employment of Ukrainian nationals, work permits, and seasonal work permits), 64% were issued for work under civil law contracts². At the same time, almost two-thirds of Ukrainian citizens in Poland were working under a mandate contract, while nearly one-third were employed under a standard employment contract³. Moreover, in January 2025, 38% of working migrants worked exclusively under a contract of mandate⁴, compared to 5.8% of people in the general working population⁵. A similar trend, albeit on a smaller scale, can

² Own calculations based on: MRPiPS. „Zatrudnianie cudzoziemców w Polsce”. n.d. Accessed 23 August 2025. <https://psz.praca.gov.pl/rynek-pracy/statystyki-i-analizy/zatrudnianie-cudzoziemcow-w-polsce>

³ MRPiPS. (2024). Informacja o zatrudnieniu cudzoziemców w Polsce (I półrocze 2024 rok). <https://psz.praca.gov.pl/documents/10828/8179096/Informacja%20o%20zatrudnieniu%20cudzoziemc%C3%B3w%20w%20Polsce%20-%20I%20p%C3%B3%C5%82rocze%202024.pdf/c0d2c62e-f2ef-474f-b015-de2b4c5e2732>

⁴ GUS. „Cudzoziemcy wykonujący pracę w Polsce w styczniu w 2025 r.”. 2025. Accessed 23 August 2025. <https://stat.gov.pl/statystyki-eksperymentalne/kapital-ludzki/cudzoziemcy-wykonujacy-prace-w-polsce-w-styczniu-w-2025-r-15.26.html>

⁵ Own elaboration based on data from the Central Statistical Office (GUS 2025)





be observed in the case of self-employment. As of the end of July 2025, the number of insured workers with non-Polish citizenship exceeded 1.24 million, including 83,700 self-employed⁶. This represents a significant increase compared to 73,900 at the end of 2024⁷. This trend is the result of recent tax and social security reforms, which have made a B2B cooperation much more “profitable” for both the employer and the worker compared to working under an employment contract.

Obstacles in applying for permanent residence

A particular challenge for migrants in Poland is the requirement to prove sufficient earnings, at least at the level of the minimum wage, when applying for permanent residence. While this condition applies regardless of contract type, research from the DignityFIRM project indicates that **business often exploits civil law contracts by declaring fictitious hours and paying the remaining remuneration informally, “under the table”. As a result, migrants are left without official documentation of their actual income, making it extremely difficult to demonstrate eligibility for permanent residence.** This practice undermines

migrants’ legal security and entrenches their economic vulnerability. Importantly, such manipulations are far more difficult and costlier for employers under standard employment contracts, which provide stronger protections and clearer income records.

Implementation Risks

Experts warn that in case of implementing the new system, **employers could face tedious and costly consequences, including corrections of personal tax, VAT, and social benefits contributions for up to five years back.** This process would involve recalculating invoices as salaries, paying backdated tax declarations and contributions, preparing new tax forms, zeroing out old annual tax returns, and correcting costs and VAT declarations. These corrections will heavily burden employers, especially micro and small businesses.

Experts also mention the **protracted nature of legal proceedings, which can last several years.** Given the current scale of misuse of civil law contracts, there is a risk that already overburdened courts⁸ will be further burdened with appeals from employers.

⁶ ZUS:
<https://psz.zus.pl/kategorie/ubezpieczeni/ubezpieczenia-emerytalne-i-rentowe>

⁷ ZUS:
<https://www.zus.pl/baza-wiedzy/statystyka/miesieczna-i-nformacja-o-wybranych-swiadczeniach-pienieznych>

⁸ In Poland, there has been a long-standing discussion about the “congestion” of labour courts. In 2023, the courts registered over 67,000 new cases, compared to 51,000 in 2022



The case law of Polish courts is ambiguous as to the characteristics of an employment contract. In particular, there are conflicting rulings considering the relationship of subordination. A 2014 Supreme Court ruling states that performing work under supervision (subordinate work) is not a feature specific to an employment relationship (II PK 372/12). This may mean that administrative decisions by the State Labour Inspectorate to convert civil law contracts into

employment contracts will be rejected by labour courts.

The administrative decision will be made by the Regional Labour Inspector (head of the regional labour inspectorate), not by the inspectors conducting the inspection.

Consequently, there is a risk that either the scale of these decisions will be small or that inspectors detecting incorrect contracts will flood the District Inspectors with motions to reclassify the contracts, causing congestion of cases.

Policy Recommendations

Although the proposed changes may improve the situation, the role of labour inspections in Poland in shaping fair and decent working conditions needs to be strengthened, and granting new administrative powers to SLI meets this objective.

Adequate Transition Period

We recommend adopting a certain *vacatio legis*, that is, **a transition period between the official announcement of a new law or legal act and its actual entry into force, of 12 or 24 months.** An appropriate *vacatio legis* will allow employers to adjust their HR policies, prevent accounting chaos related to correcting social security contributions and VAT invoices, and mitigate the risk of bankruptcy for micro-entrepreneurs, whose

personnel costs constitute a significant portion of their expenses.

Enhancing Legal Clarity

The Ministry of Family, Labour and Social Policy, together with the Ministry of Justice, should issue **a legal commentary on the interpretation of the proposed law.** Such an interpretation should recognise and acknowledge the imbalance between the worker and the employer and indicate objective grounds for recognising an employment relationship. This aligns with the ILO's Employment Relationship Recommendation, 2006 (No. 198). The independence of court rulings remains obvious, but such an interpretation and guidelines could facilitate the interpretation of existing working conditions, including for workers, streamline court proceedings, and





contribute to a change in the line of jurisprudence in common courts to better protect migrant workers.

Preventing False Self-Employment

The tax and social security burdens on self-employed individuals who do not employ others should be harmonized with workers on full-time employment contracts, to halt the rise in “false” self-employment. Stopping the growth of self-employment will not only improve the current unstable situation of the workers, but also help prevent pension poverty and future crises in the social security system in the future.

Strengthening the role of labour inspectors

The prerogative of changing a civil law contract into a labour law contract should remain with the labour inspectors. The inspectors are civil servants with special status, appointed by the Chief Labour Inspector after completing an inspector training programme and passing a state examination. Inspectors possess high competencies and are already authorised to issue formal decisions, statements, and orders, as well as to impose fines on business, and to bring actions before common courts. Adding to this catalogue, the administrative power to change civil law contracts into employment contracts seems a natural consequence of the authority they already have.

Strengthening administrative capacity

In view of the anticipated increase in court cases concerning the determination of employment relationships, it is necessary not only to **strengthen the personnel and financial resources** of the State Labour Inspectorate (as provided for in the Act), but also to strengthen the judiciary proportionally. This will prevent further “clogging” of the labour court system.

Adopting a national action plan

It is necessary to adopt a national action plan to reduce the share of civil law contracts in the labour market. This plan should include a comprehensive range of measures, not only punitive but also positive, as well as **potential financial or fiscal incentives for businesses who decide to abandon the use of civil law contracts.** It is also necessary to establish **indicators for measuring the implementation of the plan**, for example, the share of employment contracts in all contracts in the most affected sectors, including F2F sectors, over the next five years.

Promoting Understanding and Compliance

Effective communication will be crucial for the successful implementation of the new law. We recommend that the Polish government prepare **a coordinated information campaign targeting workers (including migrants), business and contractors, trade unions, and practitioners.** As it is particularly important





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in the discussion on the proposed change to gain the acceptance of business, business associations and other employers' organisations, this communication may

emphasise the need to prevent social dumping and competition between workers hired under employment contracts and civil law contracts.



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About DignityFIRM

Towards becoming sustainable and resilient societies we must address the structural contradictions between our societies' exclusion of migrant workers and their substantive role in producing our food.

www.dignityfirm.eu



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