

# Attracting seasonal workers from third countries and their protection in Poland

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# **Attracting seasonal workers from third countries and their protection in Poland**



**Report of the European Migration  
Network in Poland**

This National Report was prepared by the Ministry of the Interior and Administration acting as the coordinator of the National Contact Point to the European Migration Network in Poland (PL NCP EMN). This Report follows the common specifications and methodology prepared by the European Migration Network (EMN).

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## Table of contents

\*

Introduction  
>7

1

Profile of a seasonal worker  
in Poland  
>9

2

Attracting  
seasonal workers  
to meet the needs  
of the labour  
market  
>19

3

Protection and rights  
of seasonal workers  
>23

4

Informing about seasonal  
workers  
>35

5

Summary  
>39



## Introduction

Seasonal workers account for the majority of the workforce in Polish agriculture. They were desirable both before and after the COVID-19 pandemic. Many of them are Ukrainians, who are more competitive than Poles and work for lower wages, which is important for farmers and, consequently, translates into higher efficiency. The COVID-19 pandemic

showed that Polish farmers without seasonal workers are bearing the costs because Ukrainians, who constitute the vast majority of foreigners in Poland, went to their homeland and some of them did not return. It shows that the agricultural sector in Poland is highly dependent on the supply of foreign workers.

**TABLE 1.** Main indicators in the area of seasonal workers in Poland:

Indicator	Data
Number of seasonal work permits in 2018 (directive path)	46,417
Number of seasonal workers of the most numerous nationality (Ukrainians) covered by the directive	45,764
Percentage of main age group of seasonal workers covered by the directive who received work permits in 2018 (aged 35–44 years)	29%
Percentage of women among seasonal workers in 2018	62.9%
The minimum salary in Poland in 2019 (gross)	570 EUR
Average hourly rate of a seasonal worker in Poland in 2018 (gross, unofficial)	3.30 EUR
Percentage of the average length of stay of third-country nationals who obtained a seasonal work permit in 2018 (31-90 days)	52%
The sector where the demand for seasonal workers is the highest	agriculture
Average time to process an application for a seasonal work permit	5 days
The main institution responsible for labour law and the rights of seasonal workers	National Labour Inspectorate ( <a href="http://www.pip.gov.pl">www.pip.gov.pl</a> )
Seasonal workers who in 2018 were victims of smuggling or human trafficking	65

SOURCE: own elaboration

The statistical seasonal worker working in Poland is a Ukrainian woman aged 35 to 44. She stays in Poland for about 31-90 days during the summer period and works on the basis of a national seasonal work permit. She works in agriculture, picking mainly fruit in the field. She earns 3.30 euro gross per hour, but not less than 570 euro gross per month. Her employer, a farmer from the Lubelskie Voivodeship, obtained information on the recruitment procedures of foreign seasonal workers from the Ministry of Family, Labour and Social Policy. The foreign woman submitted an application to the local employment office via the website and obtained a national seasonal work permit for the employee, because she had previously come to Poland from Ukraine on the basis of a visa-free regime. In the event of problems with work, a seasonal worker has the opportunity to obtain free advice and information in Ukrainian over the phone from the National Labour Inspectorate.

It is important to distinguish between two types of seasonal work permits: directive seasonal work permit issued to employees staying outside Poland and national seasonal work permit for foreigners already residing in Poland. Statistics on all seasonal work permits (directive and national) will be presented later in this study. The category of seasonal work permits included in the Directive is the one that is sent to Eurostat. Please note that there may be a slight difference in this study compared to the data sent in 2019 (2018) for two reasons: 1) methodology required by Eurostat (exclusion of a seasonal work permit issued

for the same foreigner in the same period; usually all permits issued are published) and 2) the fact that some local employment offices registered work permits in the database after the data had been sent to Eurostat. For example, the number of seasonal work permits issued under the Directive in 2018 is 45 664 in migr\_ressw1, compared to 46 417, the Polish database (while the number of all seasonal work permits in 2018 was 134 601).

The coronavirus pandemic in technical terms meant that the validity of seasonal work permits and other work and residence permits in Poland was automatically extended for the period of an epidemic +30 days from the date of withdrawal of the epidemic status. In addition, foreigners admitted for reasons other than seasonal work on the basis of a valid work permit or a declaration on entrusting work to a foreigner may perform seasonal work without a seasonal work permit during the epidemic +30 days from the date of withdrawal of the epidemic status (paragraph is relevant for foreigners already staying in Poland, who, for example, lost their previous job). The current regulations also allow the entry of foreigners working in Poland, both in relation to EU citizens and third-country nationals, including seasonal workers. As a rule, persons entering the territory of Poland are subject to quarantine. However, the quarantine obligation does not apply when crossing the Polish border in order to perform work on a farm located on both sides of the Polish border.



# 1

## Profile of a seasonal worker in Poland



Considerations regarding seasonal work should start with the information that a seasonal work permit is a new instrument introduced in Poland on January 1, 2018. A work permit is issued to employers wishing to employ a foreigner who is:

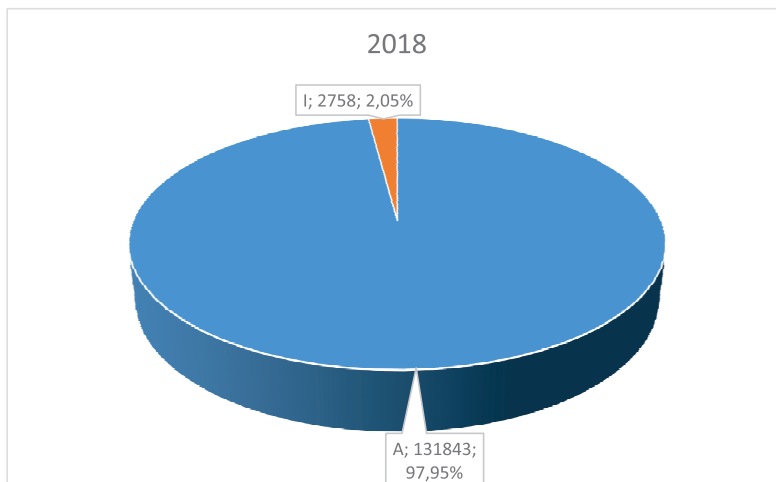
- outside of Poland. The employer submits an application to the Poviast Labour Office and receives (or not) a certificate of application, then the foreigner must obtain a special visa (05-b type) or enter Poland under the visa-free regime. As a consequence, the employer notifies the poviast labour office about this fact and only then the office issues a seasonal work permit. We will name this category of seasonal work permits as a seasonal work permit as defined in the directive (directive work permit).
- already living in Poland. The employer submits an application to the local labour office (for a foreigner with a valid visa / residence permit or who entered

Poland under visa-free regime), and then receives (or not) a seasonal work permit. We will refer to this category of seasonal work permits as the national seasonal work permit.

In Poland, sectors related to seasonal work have been distinguished under two sections of the Polish Classification of Activities (PKD), based on NACE Rev. 2: section A (agriculture, forestry and fishing) and section I (activities related to accommodation and catering services). In particular, they cover 21 subsections of agriculture, horticulture and animal husbandry, and 3 subsections of housing and catering services.

It is worth analysing the number and percentage of seasonal work permits issued, dividing them into individual sections. In order to spot the trend, the two consecutive years of permitting were also compared: 2018 and 2019.

**FIGURE 1.** Seasonal work permits in total (according to PKD sections) in 2018:



SOURCE: own elaboration based on the data from the Ministry of Family, Labour and Social Policy

In 2018, as many as 97.95% of seasonal workers were employed in section A, covering agriculture, forestry and fishing. This is the vast majority of all employees, and the dominant group is service activities supporting agriculture and following the harvest.

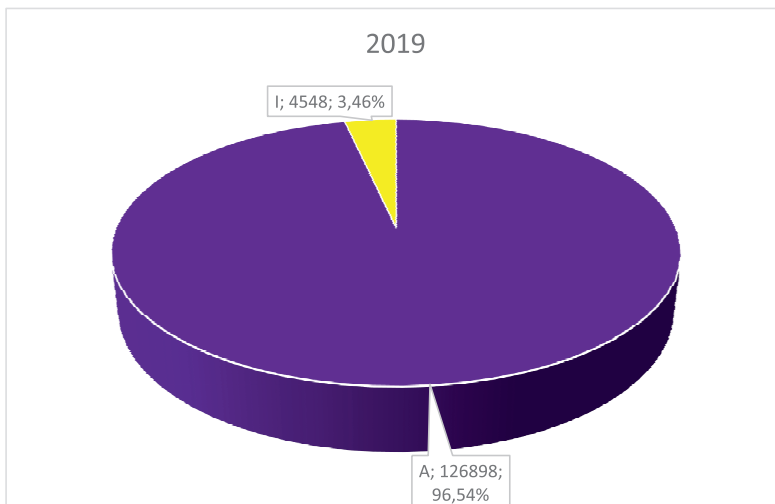
This section covers the following groups:

- crop and animal husbandry, hunting and related service activities
- forestry and logging
- fishing industry

In section I, covering activities related to accommodation and catering services, only 2.05% of foreigners worked in 2018, being employed both on the basis of the national and directive path. This section covers the provision of short-term stay, including

meals for direct consumption. However, in total, only 2,578 permits of both types for workers working in section I were issued, while 131,843 migrants worked in professions belonging to section A.

**FIGURE 2.** Seasonal work permits in total (according to the PKD sections) in 2019:



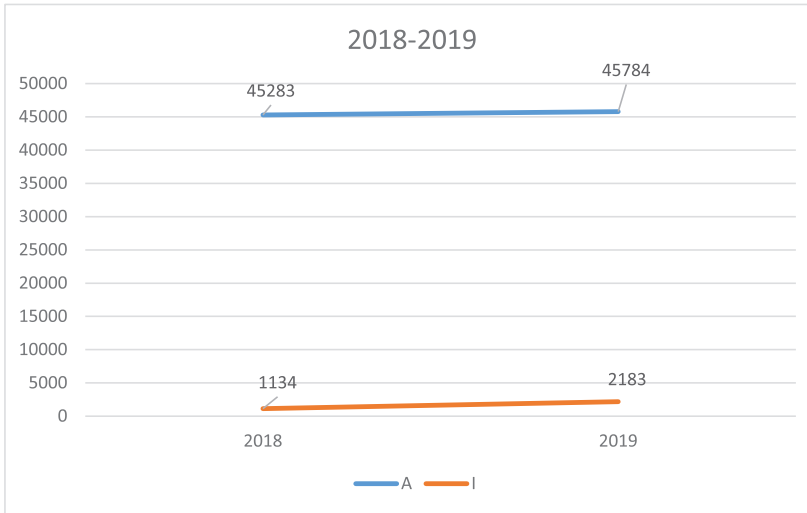
SOURCE: own elaboration based on the data from the Ministry of Family, Labour and Social Policy

The situation changed slightly in 2019 – the share of seasonal workers employed in occupations belonging to section A slightly decreased – from 98% in 2018 to 96.5% in 2019. Consequently, the number of foreigners working on the basis of seasonal work permits in section I, i.e. in catering services and in activities related to accommodation increased. Their number increased by as much as 65% compared to the previous year, by 1,790 people. The number of seasonal workers employed in agriculture, forestry and fishery decreased slightly: by 4,945 people, i.e. by less than 4%. This shows the trend that allows us to draw a preliminary conclusion that the number of seasonal workers employed in agriculture slightly

decreases at the expense of the increase in the number of people working in the catering industry. The data for 2020 will look interesting, when the pandemic resulted in the closure of the borders and, consequently, a significant reduction in the number of seasonal workers staying in Poland.

Figure 3 shows a comparison of 2018-2019 with regard to seasonal work permits issued under the directive path. It is worth noting the increase in the number of permits issued in both sections in 2019 compared to 2018 – i.e. an upward trend in the permits from section A, unlike the total number of permits, where their number is decreasing.

**FIGURE 3.** Number of seasonal work permits issued – directive path (according to the PKD sections):



SOURCE: own elaboration based on the data from the Ministry of Family, Labour and Social Policy

The nationalities of seasonal workers are interesting. The vast majority are Ukrainians – over 133,000 (almost 99% of all permits issued). Citizens of the remaining countries from the top 5 account for 1%. Details are presented in the table below.

**TABLE 2.** The number of seasonal work permits issued in total for the 5 most numerous nationalities in 2018

No	Nationality	Number of permits
1	Ukraine	133 029
2	Belarus	649
3	Moldavia	382
4	Georgia	203
5	Nepal	179

SOURCE: own elaboration based on the data from the Ministry of Family, Labour and Social Policy

In 2019, a phenomenon similar to the one in 2018 could be observed – the dominant Ukrainians, and the other nationalities only residual, also constituting about 1%. The proportions are the same as in the previous year, only the number of permits issued to

Ukrainian citizens decreased. There is a slight increase in the number of permits issued to Belarusians – by 10, and to Moldovans by as much as 99. It is characteristic to be among the top five Russian citizens in 2019 at the expense of Nepalese.

**TABLE 3.** The number of seasonal work permits issued in total for the 5 most numerous nationalities in 2019

No	Nationality	Number of permits
1	Ukraine	129 683
2	Belarus	659
3	Moldavia	380
4	Georgia	302
5	Russia	79

SOURCE: own elaboration based on the data from the Ministry of Family, Labour and Social Policy

Taking into account the number of issued seasonal work permits for the 5 most numerous nationalities, it looks the same in terms of nationality as in the case of the total number of permits for seasonal work. Ukrainians were granted 34% of permits on the basis of the directive path, i.e. from outside Poland, and 66% from the territory of Poland – followed the

national path. The situation is different in the case of Belarusians – as many as 67% of them obtained a permit based on the directive path. Moldavians use the directive path only in a quarter of cases (28%), similarly in the case of Georgians (23%) and Nepalese (16%).

**TABLE 4.** The number of seasonal work permits issued under the Directive for the 5 most numerous nationalities in 2018.

No	Nationality	Number of permits
1	Ukraine	45 764
2	Belarus	424
3	Moldavia	110
4	Georgia	46
5	Nepal	28

SOURCE: own elaboration based on the data from the Ministry of Family, Labour and Social Policy

In 2019, also in the case of the directive path, the changes are small compared to the previous year. Only in the case of Georgia there is a fairly significant increase in the number of permits issued.

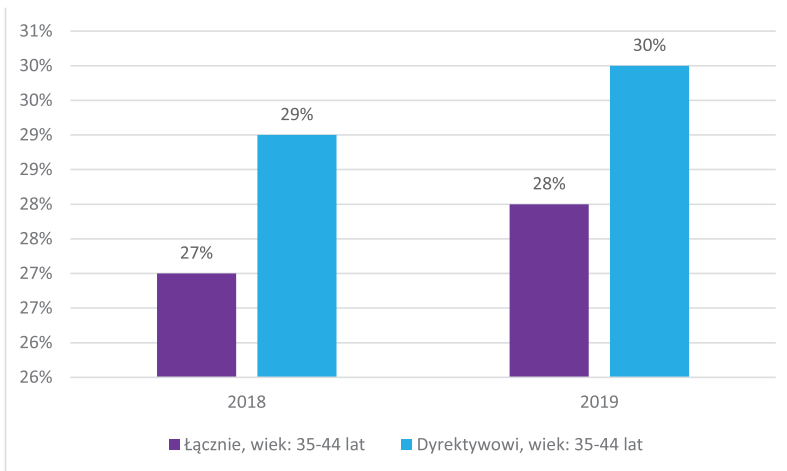
**TABLE 5.** The number of seasonal work permits issued under the Directive for the 5 most numerous nationalities in 2018.

No	Nationality	Number of permits
1	Ukraine	47 235
2	Belarus	431
3	Moldavia	110
4	Georgia	70
5	Russia	38

SOURCE: own elaboration based on the data from the Ministry of Family, Labour and Social Policy

Figure 4 shows the percentage of seasonal work permits for the most numerous age groups in 2018-2019.

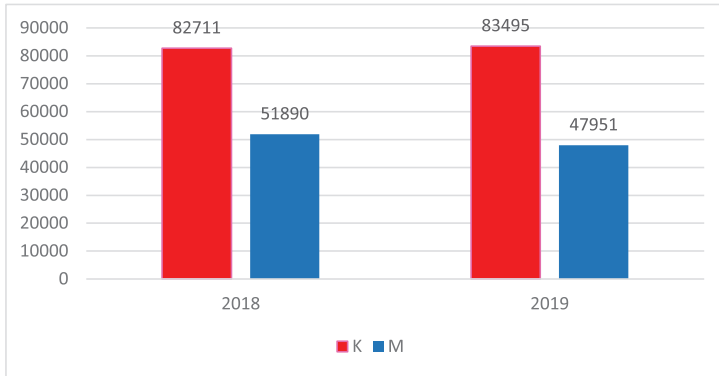
**FIGURE 4.** The most numerous age groups receiving work permits in 2018 and 2019



SOURCE: own elaboration based on the data from the Ministry of Family, Labour and Social Policy

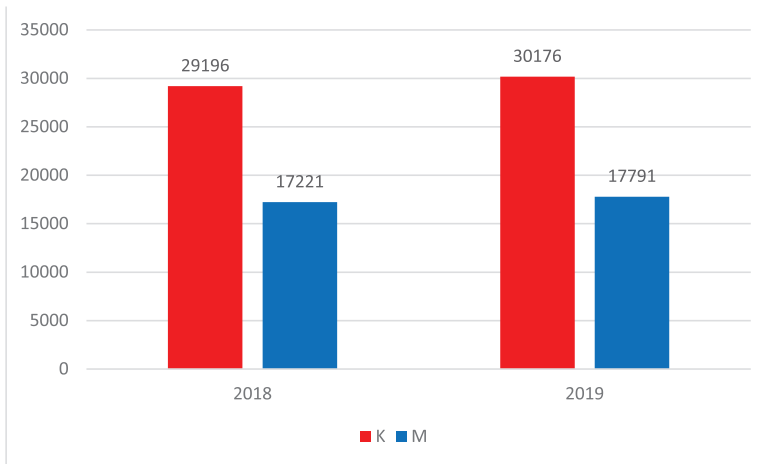
The age distribution is relatively balanced, e.g. in the case of a seasonal work permit in the directive path in 2018, people aged 35–44 accounted for 29%, 25–34–28% and 45–54–20%. In 2019, this percentage increased to 30%. It is possible to state here only a weak domination of the age group of 35-44 years, as in the case of permits in total – both directive and national paths.

**FIGURE 5.** Temporary work permits issued by gender of seasonal workers in 2018 and 2019 (in total)



*SOURCE: own elaboration based on the data from the Ministry of Family, Labour and Social Policy*

**FIGURE 6.** Issued temporary work permits by gender of seasonal workers in 2018 and 2019 (directive path)



*SOURCE: own elaboration based on the data from the Ministry of Family, Labour and Social Policy*

Seasonal work permits are granted more frequently to women than to men, whether it concerns the seasonal work permits covered by the Directive or the total number of seasonal work permits. The share of women increases with age, e.g. in the case of a seasonal work permit in 2018, women aged 18–24 accounted for 51%, 25–34–55%, 45–54–68% and aged 55–59–70%. In the case of the total number of permits in the last year, a decrease in the number of

permits issued to men can be observed. In the case of the directive path, permits for women and men increased, although only slightly for men.

An interesting issue with regard to seasonal workers is their salary. In 2019, the minimum wage in Poland was PLN 2,250 gross (approximately EUR 570), but it was not applicable to every type of contract. There are no official data on the average remuneration of seasonal workers, but in 2018



the minimum hourly wage in Poland was PLN 13.70 gross (approx. EUR 3), and in 2019 it was PLN 14.70. According to unofficial sources, the average salary in the seasonal work sector in 2018 was PLN 15 gross per hour (about EUR 3.30), i.e. slightly above the minimum wage.

Taking into account the average period of stay of a seasonal worker in Poland, there is data available on the average number of working days specified in the application for a seasonal work permit. There is no information available as to whether the job was finally undertaken. For decisions issued in 2018, the average number of working days for third-country nationals granted a seasonal work permit in 2018 was 112 days. The above figures are clearly below the half of the upper limit (approx. 270 days) at which a foreigner may work on a seasonal permit. Most seasonal workers are present in Poland during spring, summer and early autumn.

In Poland, seasonal work permits are issued both to foreigners staying outside Poland (directive seasonal work permit) and those already staying in Poland (national seasonal work permit). The conditions for obtaining both types of seasonal work permits are basically the same.

Seasonal work permits have largely replaced the declarations on entrusting work to a foreigner in agriculture and tourism (mostly in sector A and in a small part of sector I of the PKD), which are still in force (although the rules for issuing them were tightened from 1 January 2018) subclasses of the PKD Classification other than those classified as seasonal. They allow foreigners to work up to six months in the next 12 months. Work based on declarations is therefore short-term and cyclical, but not particularly dependent on the season.

During the consultation on the amendments to the legal provisions introducing the seasonal work permit in January 2018 (implementing the seasonal directive) and in the following months, an extensive debate took place on the scope of "seasonal work". Some works initially classified as seasonal turned out to be year-round, and exemptions were introduced at the end of 2018 (e.g. greenhouses, mushrooms). The possibility of further exemptions is currently being considered (especially for animal husbandry).



# 2

**Attracting seasonal workers  
to meet the needs of the  
labour market**



So far, the work of migrants in Poland has mainly replenished the gaps in low-skilled occupations, including agriculture. Such a model of demand for foreign workers resulted mainly from unfavourable demographic trends, accompanied by economic growth and low unemployment. In this respect, migration policy is essentially limited to the creation of a legal framework and information materials. The most popular short-term migration program in Poland was introduced in 2006 at the initiative of farmers. Also, the introduction of seasonal work permits in 2018, which replaced the system of declarations in agriculture, in accordance with the Seasonal Workers Directive, was widely consulted with farmers' organizations.

In recent years, agriculture in Poland, as well as other sectors, have been strongly dependent on the supply of foreign workers. It is worth noting that Poland cannot count on EU seasonal workers, around 98-99% of seasonal workers come from Ukraine. Taking into account the very high seasonality of employment and the concentration of seasonal work in very similar regions and farms, and at the same time the possibility of moving seasonal workers from regions and farms growing, among others, strawberries and raspberries, to regions and farms where apple production predominates, it can be estimated that the actual employment needs of seasonal workers in horticultural production (on farms) amount to approx. 250-260 thousand people employed for approx. 70 days. Farms specializing in fruit farming show the greatest demand for seasonal workers. These farms employ 80% of seasonal workers. The most popular NACE Rev.2 subclasses for seasonal work permits (2018-2019) are: 01.25; 01.24; 01.13; 01.29; 01.50; 01.61 and 55.20 in tourism.

Migration of seasonal workers helped to meet the needs of the Polish labour market. Migrants usually work in sectors and occupations least attractive to Polish citizens. The demand for them occurs mainly in relation to jobs that do not require higher qualifications, mainly auxiliary workers in agriculture or unskilled workers in the hotel and catering industry, as well as professions related to skilled manual work, e.g. chefs. Some services, such as fruit picking and temporary employment agencies, are largely dependent on the supply of foreign workers, including seasonal workers. Farmers arrange the arrival of seasonal

workers individually. In practice, they often use informal intermediation services, although it is prohibited. About 1.6% (about 2.1 thousand) of seasonal work permits were issued in 2019 for temporary employment agencies.

There are no limits for seasonal workers and there are no plans in the near future, however, it is worth noting that from January 1, 2018, the possibility of issuing a regulation of the minister responsible for labour, allowing for the setting of limits for seasonal work permits, permits for non-seasonal work and declarations on entrusting work to foreigners. The reason for applying the limits may be, for example, the situation on the labour market.

Taking into account the average time of processing an application for a seasonal work permit, it is approximately 5 days in Poland. There is no data on the costs of considering a single application (this cost varies across 340 local labour offices).

As already mentioned, in addition to directive permits, there is a system of declarations in non-agricultural and tourism sectors with regard to foreigners arriving in Poland. However, if the foreigner stays outside of Poland, the employer must follow the directive, which Poland has strictly implemented.

An interesting solution is the labour market test. It consists in submitting a job offer to the poviats labour office, on the basis of which the employment office verifies the possibility of satisfying the employer's staffing needs. As a consequence, obtaining official information about the impossibility of meeting the employer's staffing needs is a condition for obtaining a work permit for a foreigner. Generally, it is an important mechanism for the protection of the Polish labour market, implementing the principle of complementarity of employing foreigners in relation to native workers. However, due to the fact that citizens of Ukraine and 5 other Eastern European countries are exempt from the labour market test, around 99% of seasonal permits are issued without the labour market test. In the case of citizens of Armenia, Belarus, Georgia, Moldova, Russia and Ukraine, the employer may submit the so-called a multi-season application for a work permit, provided that he or she has entrusted a foreigner with work on the basis of a seasonal work permit at least once during the 5 years preceding the date of submitting the application. In this case, the application and the certificate

of submission of the application may refer to 2 or 3 consecutive calendar years. A foreigner must present a multi-season certificate when applying for a visa in these years.

The websites of the Ministry of Family, Labour and Social Policy, the “Information for Citizens” contact point and the “Green Line” Information and Consultation Centre of Employment Services are the main channels from which employers can obtain information on legal procedures and frameworks. Also the Ministry regularly (at least once a year) organizes workshops and seminars for labour offices on the employment of foreigners. Government brochures containing basic information on the above matter are also regularly distributed among labour offices and voivodship offices, non-governmental organizations and employers. Some information can be obtained from local employment offices, voivodship offices or non-governmental organizations.

A foreigner admitted as a seasonal worker may take up “ordinary” (not seasonal) work, if he/she has been issued a different type of work permit or an employer’s declaration. However, they cannot obtain a joint residence and work permit.

The Ministry of Family, Labour and Social Policy conducted an internal evaluation – the so-called ex post impact assessment of the implementation of the directive, for the needs of the expert and working level. The evaluation working document was also based on the views of various stakeholders including National Labour Inspectorate, Border Guard, employers’ organizations (including the Polish Association of Fruit Growers, Polish Horticultural Association, Polish Federation of Cattle Breeders and Milk Producers), agricultural producers, the Ministry of Agriculture and Rural Development. While the overall assessment was positive, employers often commented on the burdens associated with the seasonal work permit procedure and, as mentioned above, on the scope of seasonal work.

Poland is not aware of any incorrect application of the Directive. In order to streamline the procedure, some poviats labour offices have introduced only an electronic application procedure. This made it much easier for employers to hire seasonal workers.

# 3

## Protection and rights of seasonal workers





An important issue is the protection of seasonal workers who have obtained a work permit on the basis of the directive path and their rights. In Poland, in most cases, they are excluded from the privileges enjoyed by native workers.

Taking into account family benefits, seasonal workers are excluded from family benefits and state aid allocated to raising children. This is because they stay in Poland for a very short time. Seasonal workers cannot register as unemployed. They can register as jobseekers without entitlement to unemployment benefits. This is due to the fact that they stay in Poland for a very short time. If they want to stay longer in Poland, they should obtain an appropriate residence permit enabling them to register as an unemployed person (<https://psz.praca.gov.pl/-/13783-przyznanie-statusu-osoby-bezrobotnej>). Seasonal workers (directive path) do not have the right to vocational training and education in the field of seasonal work, with the exception of financial support. This is due to the fact that they stay in Poland for a very short time and are related to a specific job offer. If they want to stay longer in Poland, they should obtain an appropriate residence permit enabling them to register as an unemployed person.

In public authorities, the National Labour Inspectorate, which controls the legality of employment and working conditions, and the Border Guard, which controls the legality of entry, stay and employment, are of great importance in the matter of employee protection. Among other institutions, the most important role is played by specialized non-governmental organizations. The role of trade unions, especially in agriculture, is limited in Poland due to the low level of unionization.

The possibility of shifting the social security contribution of seasonal workers from third countries to their countries of origin depends on the existence of a bilateral agreement on the coordination of social security systems. There has been such an agreement with Ukraine since 2012).

Polish regulations do not define the standards of accommodation, with the exception of collective flats, such as hotels and similar accommodation and social facilities. There are general sanitary and fire regulations that are checked by the relevant services when possible threats are reported. In line with the provision of the Seasonal Workers Directive, according to

which the accommodation conditions are to be in line with national law, the accommodation conditions are checked on a general basis.

The tasks of the National Labour Inspectorate include supervision and control of compliance with labour law, in particular the provisions and principles of health and safety at work, provisions on the employment relationship, remuneration for work and other benefits resulting from the employment relationship, working time, holidays, rights of employees related to parentage, employment of young people and people with disabilities. Labour inspectors also inspect the legality of employment, other gainful work and work performed by foreigners, including those providing seasonal work, and running employment agencies in accordance with the conditions set out in the provisions on promotion of employment and on labour market institutions. In addition, the National Labour Inspectorate performs checks on the payment of remuneration in the amount resulting from the amount of the minimum hourly rate, in accordance with the provisions of the Act of October 10, 2002 on the minimum remuneration for work.

In the course of inspections of the legality of employment of foreigners, the following issues are examined:

- a) the legality of entrusting work to a foreigner and the legality of performing work by a foreigner;
- b) registering the foreigner for social insurance;
- c) obligations of the entity entrusting the performance of work to foreigners, including those performing work on the basis of seasonal work permits;
- d) compliance with labour law provisions, in particular:
  - compliance of the application of civil law contracts with the conditions of work (unlawful conclusion of a civil law contract under the conditions in which, in accordance with Article 22 § 1 of the Labour Code, an employment contract should be concluded),
  - compliance with the provisions on technical safety at work,
  - compliance with the principle of equal treatment of foreigners in terms of working conditions and other terms of employment – in comparison to Polish citizens.

Labour inspectors carrying out inspections of

foreigners performing seasonal work examine the type of contract concluded by the entity entrusting work to the foreigner. In the case of seasonal work, one of the characteristic agreements that farmers can conclude with both Polish citizens and foreigners is the harvest help contract. By entering into the aforementioned contract, the farmer's helper undertakes to provide assistance in harvesting agricultural products, i.e. hops, fruit, vegetables, tobacco, herbs and herbal plants, in a specific place on the farmer's farm and for a specified period, and the farmer undertakes to pay the agreed remuneration for the provided help. The farmer's helper is subject to farmers' social insurance (in KRUS – Agricultural Social Insurance Fund), i.e. accident, sickness and maternity insurance, but only to the extent of a one-time compensation for permanent or long-term health impairment or death as a result of an accident at agricultural work or an occupational disease in agriculture. The total duration of assistance with the harvest of hops, fruit, vegetables, tobacco, herbs and herbal plants on the basis of harvest help contracts concluded by one farmer's helper may not exceed 180 days in a calendar year. The provisions on the minimum hourly rate specified in the Act of 10 October 2002 on the minimum remuneration for work do not apply to the remuneration of farmers' helpers for the provision of aid under the harvest help contract.

As part of the control proceedings conducted, the inspection bodies also examine whether employers fulfil their obligations regarding equal treatment of employees and the prohibition of discrimination in employment resulting from the provisions of the Labour Code. The scope of control of employment agencies and entities referred to in art. 18c of the Act of 20 April 2004 on promotion of employment and on labour market institutions, also covers the issues of compliance with the prohibition of discrimination on grounds of sex, age, disability, race, religion, ethnic origin, nationality, sexual orientation, political beliefs and religion or due to the trade union membership of the people for whom they are looking for employment or other gainful work. In addition, in accordance with the Act of 3 December 2010 on the implementation of certain provisions of the European Union in the field of equal treatment, the performance of tasks related to the implementation of the principle of equal treatment, including work under a civil law contract,

was entrusted to the Human Rights Defender.

In addition to inspection activities, the National Labour Inspectorate also conducts preventive measures to prevent illegal employment of foreigners and violation of their employee rights. During inspections, labour inspectors provide legal advice and provide information on labour law and employment legality. In addition, foreigners can use the helpline dedicated to foreigners speaking Ukrainian and Russian, through which they can obtain legal advice on the above issues. The hotline was launched at the Counselling Centre of the National Labour Inspectorate in Warsaw on February 26, 2018. Currently, the hotline for foreigners includes three legal advice stations.

In the case of illegal performance of work by a foreigner, e.g. without the required seasonal work permit, the labour inspector applies sanctions against both the foreigner (a fine of up to PLN 2,000 or an application for a fine to the court – maximum fine of PLN 5,000) and the employer (submission of a motion for punishment to the court – a fine in the amount from PLN 1,000 to 30,000). The labour inspector applies the above-mentioned sanctions in each case when it is proved that the foreigner is guilty of committing an offense, i.e. he/she was not brought to illegal work as a result of misrepresentation, exploitation of an error, use of professional dependence or inability to properly understand the undertaken action, and when the foreigner may be accused (he/she was not detained by the Border Guard or the Police). Moreover, if, during the inspection, the labour inspector is not presented with documents confirming the foreigner's legal stay in the territory of the Republic of Poland, or on the basis of the presented documents, the labour inspector reveals his/her illegal stay or illegal performance of work, he shall immediately notify the Border Guard about this fact.

The Border Guard authorities control the legality of work performed by foreigners, the conduct of business activity by foreigners and entrusting work to foreigners. The Border Guard carries out the above-mentioned control in order to establish the actual state of affairs in the scope of compliance with the provisions on the legality of work performed by foreigners, the conduct of business activity by foreigners and entrusting work to foreigners. In the event of finding violations of labour law relating to other than the above-mentioned spheres, the Border

Guard authorities notify the competent institutions. The inspection may cover employers, entrepreneurs not employing an employee and other institutions, as well as in the case of a justified suspicion of a breach of regulations, natural persons. The Border Guard cooperates with public administration bodies, in particular with the Police, the National Labour Inspectorate, the National Tax Administration, the Social Insurance Institution, as well as trade unions and employers' organizations in the scope of carrying out controls. The Border Guard authority carrying out the inspection shall notify the competent authorities of the suspected violation of legal provisions, in particular:

- The Social Insurance Institution – in the event of violation of the provisions on social insurance and contributions to the Labour Fund;
- National Labour Inspectorate – in the event of violation of labour law;
- National Tax Administration – in the event of violation of the provisions of the tax law or customs law;
- the Police or the Prosecutor's Office – in case of suspicion of committing a prohibited act.

If the employee is found to be illegally staying, regardless of whether he/she is a seasonal worker or performs work outside the seasonal range, proceedings are generally initiated to oblige the foreigner to return. In addition, in accordance with the provisions of the Act of 20 April 2004 on promotion of employment and on labour market institutions, illegal stay of a foreign employee also meets the definition of illegal work performed by them, i.e. infringement punishable by a fine. In justified cases, proceedings are initiated in relation to a crime under Art. 9 of the Act of 15 June 2012 on the effects of entrusting work to foreigners illegally residing in the territory of the Republic of Poland.

The leading state institution involved in the observance of the principles of non-discrimination by employers is the National Labour Inspectorate. Every year, it publishes a report that includes the results of the controls carried out, as well as describes the methodology and rationale for the audit in a given year (i.e. why a given sector is under more extensive control and others are not, etc.). The latest report was published on the National Labour Inspectorate

website: Sprawozdanie Głównego Inspektora Pracy z działalności Państwowej Inspekcji Pracy – 2018 (Chief Labour Inspector's Report on the activities of the National Labour Inspectorate -2018).

In addition, the Ministry of Family, Labour and Social Policy carries out the analysis focused on identifying the sectors in which the highest number of abuses takes place, based on the results of the control. Future efforts are aimed at increasing the number of inspections in these sectors. The National Labour Inspectorate carries out inspections of employers as well as entrepreneurs who are not employers and other organizational units for which foreigners, regardless of the basis for providing this work, provide work. In accordance with the guidelines and procedures adopted by the National Labour Inspectorate, inspections of the legality of employment, other gainful work and the performance of work by foreigners – as a rule – are carried out during each inspection of the entity in which it was found that work was performed by foreigners from outside the EU / EEA or Switzerland and covers all such persons performing work for the controlled entity. Planned inspections are carried out in selected entities where the highest scale and risk of irregularities in the legality of employment of foreigners is expected.

In particular, in 2018, these inspections included:

- a) entities in which the control is the result of a complaint submitted by a foreigner or information obtained about irregularities in the employment of foreigners, e.g. as a result of an application or notification received from another authority;
- b) selected entities in industries in which illegal employment of foreigners was found in previous years – according to the knowledge of local conditions and the specificity of the labour market in the area of operation of a given the National Labour Inspectorate, including industries where it was found that work was entrusted to foreigners staying in the territory of the Republic of Poland without valid residence permit or in which there may be a suspicion of forced labour or trafficking in human beings;
- c) entities which entrust foreigners with seasonal work, including farms and horticultural farms of individual farmers, in particular in the case of obtaining information from poviats labour offices or the Border Guard about the possibility of abuse

related to the use of the simplified system of entrusting work to foreigners on the basis of declarations or seasonal work permits;

- d) employment agencies and employers users entrusting work to foreigners as part of temporary work;
- e) foreign employers posting employees to perform work in the territory of the Republic of Poland.

Taking into account the statistical data, the National Labour Inspectorate is the appropriate institution. The Ministry of Family, Labour and Social Policy also summarizes the reports of the inspection bodies (the National Labour Inspectorate and the Border Guard) in the document "Assessment of the

risk of entrusting work to a foreigner without a valid residence permit". As regards complaints and advice provided by foreigners, the National Labour Inspectorate does not register data in terms of the type of work performed by foreigners or the obtained work permit. The following information in the table applies to all foreigners, including people performing seasonal work. Data from the control of the legality of employment of foreigners include all foreigners working in the territory of the Republic of Poland, including those with a seasonal work permit, regardless of the type of contractual relationship between the parties (an employment contract or a civil law contract has been concluded with the foreigner).

**TABLE 6.** Complaints submitted to the National Labour Inspectorate by foreigners in 2018–2019

	2019	2018
<b>Complaints – in total</b>	54.7 thousand	54.1 thousand
<b>Complaints submitted by foreigners</b>	2,791	2,320
<b>Problems raised in the complaints of foreigners</b>	4,063	3,669
<b>Allegations of foreigners in the submitted complaints recognized as:</b>		
• justified,	1,036	951
• unjustified,	1,287	1,271
• no possibility to establish or case pending	1,740	1,447
<b>The dominant subject of complaints:</b>		
• non-payment of remuneration to foreigners		
• failure to pay the minimum hourly wage in the case of a mandate contract or contract for the provision of services	1,419	1,232
• no written confirmation of the employment contract	447	328
	205	230

**TABLE 7.** Advice provided to foreigners in 2018–2019

	2019	2018
<b>People asking questions – in total</b>	213.3 thousand	242.1 thousand
<b>Foreigners asking questions</b>	6,100	4,808
<b>Topics discussed in questions asked by foreigners</b>	10,718	7,663
<b>Form of advice provided to foreigners:</b>		
• e-mail	30	42
• written	94	93
• oral	2,765	2,322
• telephone	3,211	2,351
<b>The dominant subject of advice provided to foreigners:</b>		
• legality of employment of foreigners	3,576	1,930
• remuneration for work and other benefits	2,352	1,994
• employment relationship	1,398	1,509

In 2018, labour inspectors carried out 7,817 inspections of the legality of employment and work performed by foreigners (9% more than in 2017 and 84% more than in 2016). The legality of entrusting work to 40.4 thousand of foreigners was checked, including 17.9 thousand performing work on the basis of a declaration on entrusting work to a foreigner and 921 foreigners working on the basis of a seasonal work permit. The inspection covered citizens of 123 countries, including 97 third countries, i.e. countries outside the EU / EEA area and Switzerland. As in previous years, the largest group of foreigners under control were Ukrainian citizens – 33.7 thousand, i.e. 83% of the foreigners checked. Among foreigners working on the basis of a seasonal work permit, the citizens of Ukraine dominated – 797 people. Next, the citizens of Belarus – 72 persons, Moldova – 14 and Nepal – 11 should be mentioned. In 2018, the largest number of controlled seasonal foreign workers worked in the following voivodships: Lubuskie – 174 persons, Mazowieckie – 156 persons and Zachodniopomorskie – 148 persons. They worked in the following sectors of the economy: agriculture, forestry – 214 people, manufacturing – 177 and construction – 152. In 2018, during inspections 1,438 cases of entrusting work illegally to a foreigner were found, i.e. in 18.4% of inspections carried out

in this respect (in 2017 – in 14.8% of inspections). It was established that 4,560 foreigners who were citizens of 37 third countries were entrusted with illegal work, which constitutes 11.5% of foreigners from these countries under control (in 2017 it was 5,385 foreigners – 11.9%). Among foreigners illegally entrusted with work – 58 are people (including 53 Ukrainian citizens) who worked / should work on the basis of a seasonal work permit. In 2018, the Border Guard carried out 3,603 checks on the legality of work performed by foreigners and on entrusting work to foreigners. The inspections of the legality of work performed by foreigners and entrusting work to foreigners covered a total of 66,053 foreigners (57,078 foreigners were absent during the inspection – document-based control), of which 12,014 foreigners performed work illegally. As a result of control activities against 1,069 foreigners, the Border Guard authorities issued decisions obliging them to return.

As a result of the audit in 2018:

- in relation to 1,288 entities, a motion for punishment was submitted to the court in connection with violation of the law regarding the legality of employment;
- in 10 cases, motions for punishment were submitted to the court against the entities in the event of causing a foreigner to perform work illegally, in

connection with misleading the foreigner, exploiting an error, using professional dependence or inability to properly understand the undertaken action (Article 120 (3) of the Act promotion of employment and on labour market institutions);

- 337 entities were found that entrusted the performance of work to foreigners residing illegally in the territory of the Republic of Poland.

With regard to the remaining foreigners, no decisions on the obligation to return were issued for the following reasons:

- there was a negative premise for the foreigner's obligation to return – art. 303 of the Act of 12 December 2013 on foreigners,
- employment legality inspections were carried out on the basis of the documentation provided by the employer, even in the absence of foreigners,
- foreigners left the place of work due to the seven-day period of waiting for the employer's signature after presenting him/her with the employment legality inspection report.

As a result of the above-mentioned inspections, 410 foreigners who worked without a valid document entitling them to stay in the territory of the Republic of Poland were revealed. Based on the arrangements made:

- the Border Guard authorities issued decisions against 235 foreigners about the obligation to return;
- in other cases, no administrative proceedings were initiated to oblige the foreigner to return due to: the occurrence of a negative premise obliging the foreigner to return, to leave the territory of the Republic of Poland or to leave the place of inspection.

Against 87 foreigners, motions for punishment were submitted to the court in relation to illegal work, 34 foreigners received a penalty notice, and against 174 entities motions for punishment were submitted to the court in connection with entrusting illegal work to a foreigner. In some cases, there were no grounds to submit the said request, in connection with the fulfilment of the conditions of art. 120a of the Act of 20 April 2004 on promotion of employment and on labour market institutions. According to the "Assessment of the risk of entrusting work to a foreigner without a valid residence permit" prepared by the

Ministry of Family, Labour and Social Policy (carried out in connection with the implementation of the so-called Sanctions Directive – Directive 2009/52), although their scale remains small in Poland, the percentage of controls indicating irregularities has increased in 2015-2018 from 1.9% to 3.5%. In NACE Rev.2 sector A, the percentage of controls in recent years was: 2016 – 3%; 2017 – 4%; 2018 – 2.3%.

Foreigners performing seasonal work have the option of submitting a complaint to the National Labour Inspectorate against the entity entrusting work to them on the same terms as Polish citizens and foreigners with access to the Polish labour market on other terms than a seasonal work permit, e.g. with a type A permit, temporary residence and work permit or a declaration on entrusting work to a foreigner entered in the records. The National Labour Inspectorate is an authority established to supervise and control compliance with labour law, in particular with the provisions and principles of occupational safety and health, as well as with the provisions on the legality of employment and other gainful work for foreigners. The National Labour Inspectorate responds to all complaints received by District Labour Inspectorates, regardless of the citizenship of the person submitting the letter.

The subject of the complaint may be in particular:

- a) violation of the rule of law or the complainants' interests, neglect or improper performance of tasks by the bodies or employees of the National Labour Inspectorate, as well as lengthy or bureaucratic handling of cases;
- b) violation of labour law, including regulations on occupational health and safety and the legality of employment, relating directly to the complainant.

The procedures for submitting complaints follow the provisions of the Code of Administrative Procedure. Complaints may be submitted in writing, by facsimile, electronic means of communication, and orally for the record. In addition, on the National Labour Inspectorate website: [www.pip.gov.pl](http://www.pip.gov.pl), there is an e-complaint / e-application form, enabling electronic reporting of the case to the National Labour Inspectorate. According to Art. 63 § 2 of the Code of Administrative Procedure, the application should contain at least the indication of the person from whom it comes, their address and request, and it

should meet other requirements set out in specific provisions. This means that the content of the correspondence addressed to the National Labour Inspectorate should contain at least an indication of:

- a) the person from whom it comes (his/her name and surname),
- b) address (postal code, city, street, flat / house number) of that person,
- c) the subject of the case to which it relates.

The lack of the above-mentioned data will leave the case without consideration.

It is recommended that complaints and applications which do not contain the name and address of the applicant (anonymous), concerning the notification of gross violation of the law, e.g. illegal employment of a significant number of foreigners, be accepted for consideration or included in the planning of control activities. A complaint is settled mainly by examining the matter under the complaint control procedure. After the end of the procedure, the person lodging the complaint or motion is notified of the manner of settling the matter. The labour inspector is obliged not to disclose information that the inspection is carried out as a result of a complaint, unless the complainant agrees to it in writing.

Towards employers who have not fulfilled their obligations under the directive on seasonal workers, in principle, the same penalties are applied as to other entities violating the rights of Polish citizens or foreigners performing non-seasonal work. Pursuant to art. 120 sec. 1 of the Act of 20 April 2004 on promotion of employment and on labour market institutions, entrusting illegal performance of work to a foreigner, including seasonal work, is an offense. An act committed by an employer or a person acting on behalf of the employer is punishable by a fine of PLN 1,000 to 30,000. Moreover, the Act on the promotion of employment and labour market institutions provides for the introduction of sanctions for failure to sign rental agreements with a foreigner performing seasonal work in a situation where the employer provides accommodation. If the foreigner entered the territory of the Republic of Poland on the basis of a visa issued for the purpose of performing seasonal work or under the visa-free regime in connection with the application for a seasonal work permit entered into the register, and the

entity entrusting the foreigner with the performance of work on the basis of a seasonal work permit provides him/her with accommodation, this entity is obliged to conclude a separate agreement with the foreigner in writing specifying the terms and conditions of renting or loaning for use a housing facility. In addition, before signing the contract referred to in paragraph 1, the entity entrusting the performance of work to the foreigner is obliged to provide the foreigner with a translation of the contract into a language he/she understands. Anyone who fails to fulfil the above obligations shall be subject to a fine from PLN 200 to PLN 2,000. In the event of disclosure that the foreigner performs work or on the day of initiating the control of the legality of work performed by an authorized body, he / she performed work without the required work permit or the employer's declaration to entrust work, registered in the poviat labour office, or he/she was fined for illegal work performance, the Border Guard may issue a decision obliging the foreigner to return (leave the territory of the Republic of Poland). In this case, the costs associated with the issuance and execution of the decision obliging the foreigner to return are borne by the employer (the entity entrusting the performance of work to the foreigner) – art. 302 paragraph 1 point 4, art. 310, art. 337 paragraph 3 of the Act of 12 December 2013 on foreigners. In turn disclosure of an offense under art. 120 sec. 1 of the Act on promotion of employment and on labour market institutions of April 20, 2004, in a specific situation, may become the basis for the starost to issue a decision to revoke a seasonal work permit for a foreigner or a decision to refuse to issue a seasonal work permit (Article 88j, Article 88x and art. 88y of the above-mentioned act).

As regards compliance with the provisions of the Act of 15 June 2012 on the effects of entrusting work to foreigners residing illegally in the territory of the Republic of Poland, the following provisions are of the greatest importance:

- in accordance with Art. 2 and 3 above of the Act, the entity entrusting the performance of work to a foreigner is obliged to request the foreigner to present a valid document entitling him/her to stay in the territory of the Republic of Poland before the commencement of work and to keep a copy of this document throughout the period of work performance by the foreigner;

- art. 11 defines the offense consisting in persistently entrusting work to a foreigner residing without a valid document entitling him/her to stay in the territory of the Republic of Poland if the work is not related to the business activity conducted by the person entrusting the work. Inciting and aiding to commit the act is punishable (a fine of up to PLN 10,000);
- art. 9 and 10 of the Act provide for offenses in the form of:
  - entrusting, at the same time, the performance of work to many foreigners residing illegally in the territory of the Republic of Poland;
  - entrusting work to a minor foreigner residing illegally in the territory of the Republic of Poland;
  - persistent entrusting – in connection with the conducted business activity – the performance of work to a foreigner residing illegally in the territory of the Republic of Poland;
  - entrusting work to a foreigner residing illegally in the territory of the Republic of Poland in particularly exploitative working conditions;
  - entrusting work to a foreigner residing illegally in the territory of the Republic of Poland, who is a victim of the crime specified in art 189a § 1 of the Criminal Code (trafficking in human beings).

Recognition, prevention and detection of the above-mentioned crimes and prosecution of their perpetrators are the tasks of the Border Guard and the prosecutor's office. In the event of a violation of the employment rights of foreigners, including seasonal workers, by employers, the National Labour Inspectorate issues decisions regarding violations of health and safety regulations and ordering the payment of due wages and other benefits under the employment relationship. Moreover, tasks of the National Labour Inspectorate include prosecuting offenses against employee rights specified in the Labour Code. According to Art. 282 § 1 point 1 of the Labour Code anyone who does not pay, within the set period of time, the remuneration for work or any other benefit due to an employee or to a member of his family who is entitled to such benefit, or reduces, without a legal basis, the amount of the remuneration or the benefit, or makes any deductions without a legal basis, is liable to a fine of between PLN 1,000 and PLN 30,000.

When carrying out tasks related to the control of the legality of employment of foreigners, the National Labour Inspectorate cooperates with other authorities and services competent in the field of monitoring seasonal workers and their employers, including the Border Guard, voivodes, poviats labour offices and the Social Insurance Institution. The essence of this cooperation is the joint implementation of control activities or undertaking control at the request of another authority, notifying about irregularities found during the control – in accordance with the competence of partner bodies, as well as taking preventive and training initiatives to raise the level of knowledge of applicable regulations among employers and foreigners.

The scope and forms of cooperation between the National Labour Inspectorate and the Border Guard have been redefined in the Agreement of the Chief Labour Inspector and the Commander-in-Chief of the Border Guard of 10 December 2018 on the principles of cooperation between the National Labour Inspectorate and the Border Guard. Among the issues covered by the cooperation, it is worth mentioning identification of sectors of activity focused on the employment of illegally staying third-country nationals. In addition, very important aspects of the on-going cooperation between the Labour Inspectorate and the Border Guard include: preventive initiatives – to improve compliance with the law, exchange of experiences and good practices, in particular in the field of improving inspection methods, exchange of available interpretations of regulations, organizing joint training and exchange of lecturers, as well as mutual substantive assistance of the National Labour Inspectorate and the Border Guard.

In addition, as part of cooperation, the inspection authorities inform the competent institutions about identified irregularities, in particular:

- Border Guard or the Police – on violation of the provisions on foreigners;
- the head of the customs and tax office – on violation of tax law;
- Social Insurance Institution – on violation of social insurance regulations;
- voivode – on disclosed cases of violation of the provisions on promotion of employment and on labour market institutions related to the employment of foreigners or entrusting other gainful work to them.



In 2019, as part of activities related to the legality of employment of foreigners, labour inspectors conducted 226 joint inspections with the Border Guard (in 2018 – 176) and 70 inspections at the request of this formation (in 2018 – 78). 970 notifications were sent to the Border Guard on cases of illegal work performed by foreigners disclosed by the National Labour Inspectorate (in 2018 – 711).

Apart from the cases indicated above, labour inspectors, after completing the control of legality of employment of foreigners, sent information letters, also to:

- voivodes – 944 notifications (in 2018 – 666),
- Social Insurance Institution – 331 (in 2018 – 313),
- the customs and tax offices – 122 (in 2018 – 104),
- poviats labour offices – 92 (in 2018 – 68),
- the Police – 74 (in 2018 – 108),
- voivodship marshals – 55 (in 2018 – 46),
- starosts and presidents of cities with poviats rights – 51 (in 2018 – 50).

An important project from the point of view of the operational and technical preparation of the National Labour Inspectorate is the project “Monitoring of work and stay for commercial purposes of foreigners in the territory of the Republic of Poland” (in short: “MPPC project”), under the “Digital Poland” Operational Program for the years 2014-2020. The MPPC project, with a budget of almost PLN 24 million, is almost 85% financed by the European Regional Development Fund, and slightly more than 15% is national co-financing. The project leader is the Ministry of Family, Labour and Social Policy, and among its partners, apart from the National Labour Inspectorate, there are the following institutions: the Border Guard Headquarters, the Office for Foreigners and the Social Insurance Institution. The MPPC project aims to digitize, and thus optimize and simplify the process of taking up work by foreigners, as well as the exchange of information about foreigners starting work in Poland and about entrepreneurs recruiting foreigners. Sharing the above-mentioned data is carried out using properly secured ICT systems.

Labour inspectors – in order to control the legality of employment, other gainful work and work performed by foreigners, and to control compliance with the provisions of the Act of June 10, 2016 on the posting of workers as part of the provision of services – were provided with data from the central register of work permits, permits for seasonal work and declarations on entrusting work to a foreigner.

18 Ukrainian citizens (16 men, 2 women) and 9 Belarusian citizens (all men) who were seasonal workers were victims of trafficking in human beings. They were disclosed in one case carried out by the Maritime Division of the Border Guard as exploited, within the meaning of the definition of trafficking in human beings for forced labour, in the construction sector in Poland and Sweden.

The results of the inspection of the legality of employment of foreigners indicate that ignorance of the applicable law is the main reason for irregularities related to entrusting work to foreigners. The above statement largely applies to entities registered in the territory of the Republic of Poland by entrepreneurs from other countries, in particular from countries outside the European Union (especially by Ukrainian citizens). Noticing the need to provide information on the applicable regulations on the legality of entrusting and performing work to both Polish citizens and foreigners, the National Labour Inspectorate in 2017-2019 implemented a 3-year information campaign “I work legally”. The overriding goal of the campaign was to raise the level of legal awareness of employers and employees – including foreigners (mainly Ukrainian citizens) working or planning to work in the territory of the Republic of Poland, in particular:

- promoting the choice of legal work instead of employment in the “shadow economy” and illegal work;
- stigmatizing unlawful practices used by employers who decide to entrust work in violation of applicable law;
- informing about the forms and possibilities of using the substantive assistance of the National Labour Inspectorate in eliminating irregularities.



# 4

## Informing about seasonal workers



As regards informing seasonal workers about their rights, government leaflets and brochures distributed by the Ministry of Family, Labour and Social Policy are also regularly sent to embassies and consulates in order to inform future employees and people already residing and working in Poland about their rights and obligations. The obligations of employers are also communicated on a daily basis by poviats labour offices (about which inform regular ministry seminars, described in the answer to question no. 24). These institutions are on the front lines of employers intending to entrust work to a foreigner. Their main point of contact is the "Green Line" Information and Consultation Centre of Employment Services, which develops various communication channels, such as chat on the website, call-centre, social media messaging applications and e-mails.

The National Labour Inspectorate provides free advice and information on labour law and legality of employment (also in Ukrainian). It also investigates employees' complaints about employers' non-compliance with labour law and occupational health and safety, as well as about illegal employment. Addresses and telephone numbers of local labour inspectorates (in each voivodship city) and regional offices (in other larger cities) can be found at [www.pip.gov.pl](http://www.pip.gov.pl) Any interested person, including a foreigner performing seasonal work, may lodge a complaint with the National Labour Inspectorate against the entity entrusting the performance of work, which does not comply with the provisions of labour law, occupational health and safety or related to the legality of employment.

Kampania „Pracuję legalnie” (“I work legally” campaign) was under the honorary patronage of the Marshal of the Sejm of the Republic of Poland, and the Social Insurance Institution, a strategic partner, was actively involved in its implementation. In addition, the campaign was supported by: the Lewiatan Confederation, Employers of the Republic of Poland, the Polish Craft Association, the Polish Alliance of Trade Unions, NSZZ “Solidarity” and the Association for Legal Intervention. The campaign was launched in September 2017 with a conference organized by the Chief Labour Inspectorate in cooperation with the District Labour Inspectorate in Lublin. At the same time, a website was launched: [www.prawawpracy.pl](http://www.prawawpracy.pl). This website contains substantive materials on the

legality of employment of Polish citizens and foreigners, electronic versions of free publications created by the National Labour Inspectorate in Polish, Ukrainian and English, films for employers and employees pointing out the benefits of legal work and the dangers of illegal employment, and other campaign materials. There was also a regularly updated list of free training courses for employers and employees planned by each district labour inspectorate, with the addresses of training places, their dates and starting times. After the end of the campaign, the website is still administered and updated by the National Labour Inspectorate. The implementation of the media activities planned as part of the campaign began in 2017 with the production by the National Labour Inspectorate of two 30-second radio spots, which were addressed to employers and employees. In the period from November 24 to December 11, 2017, they could be heard on the Polskie Radio Program I and III, and on RMF FM Radio – a total of 240 broadcasts (financed from the budget of the Social Insurance Institution). The spots were also broadcast in June 2018 and 2019 on nationwide radio stations: RMF FM, ZET and on Program One and the Third PR, as well as at selected local stations – in line with the assumption that at least 40% of the spots for each target group would be in prime time. In 2017-2018, the information campaign was also carried out via industry websites, a newsletter for employers and the Google search engine, from where people seeking information related to the subject of legality of employment were directed to the campaign website. Banners for the implementation of the Internet campaign were prepared, among others in Ukrainian.

The online campaign was carried out through the nationwide information portal [wp.pl](http://wp.pl), on industry websites, in the Google search engine and through e-mailing with information about the activities carried out. In total, in 2017, there were over 8.68 million views of all advertising formats and 23,419 clicks on the campaign ad.

In 2018, almost 4 million views of all advertising formats were recorded, 252,091 clicks on the campaign ad and 151,129 newsletters were sent. In order to strengthen the message of the campaign and reach the widest possible group of recipients – in 2018 and 2019, content related to legal work was each time promoted through two 4-page information

sheets, addressed to employees and employers hiring foreigners. These inserts have been added to over 100 local press titles. Each time they reached nearly 700,000 readers. The actions taken by district labour inspectorates were coordinated with the press campaign – e.g. training, legal advice addressed to readers, interviews with specialists from the Labour Inspectorate on the legality of employment, etc. In addition, in 2018, film spots were produced for employers and employees regarding the benefits of legal work and the dangers of illegal employment. The main characters of two of them were Ukrainian women who told the story of their employment in Poland. The films were made in two language versions (with Polish and Ukrainian subtitles). From September 16 to October 15, 2019, five 60-second film spots were broadcast on LCD screens in public transport in 20 largest Polish cities (in 14 provinces), including Warsaw, Kraków, Łódź, Trójmiasto, Wrocław, Poznań, Szczecin, Białystok, Lublin and Upper Silesia. In addition, these spots were used as training support material for employers and employees, multimedia material on the campaign website, in customer service rooms of the Social Security Institution and in selected online social media.

After the end of the media campaign in 2018 and 2019, a social survey of the reception of the project was carried out on a sample of 500 entrepreneurs belonging to the target group. On this basis, a qualitative assessment of the campaign and activities undertaken during it was obtained. According to the results of the research, the vast majority of employers were of the opinion that information campaigns addressed to employers and entrepreneurs popularizing knowledge about labour law and the legality of employment of Polish citizens and foreigners are needed. Campaign addressees positively assessed control, preventive, and information-educational activities of

the National Labour Inspectorate. The respondents showed positive feelings about the campaign “I work legally”. Most of them were of the opinion that the campaign raised an important topic, was understandable and adjusted to the recipient.

- 26.3% of respondents indicated that as a result of contact with the campaign’s message, the scope of their knowledge about employee rights increased;
- 21.4% of the respondents said that as a result of contact with the campaign they got acquainted with publications on the legality of employment;
- 19.3% emphasized that in the event of noticing a breach of employee rights, they will ask the National Labour Inspectorate for their enforcement.

As part of the “I work legally” campaign, publications in Polish, Ukrainian and English were prepared and distributed free of charge. They were handed over to recipients during training sessions, conferences and trade fairs, as well as during control activities. The publications are also available for download from the campaign website and from the National Labour Inspectorate website. In 2017, 6,365 copies of free publications were distributed (there had been no publications dedicated to the campaign earlier), in 2018 – 97,697, in 2019 – 64,028. The key goal of the media campaign organized by the National Labour Inspectorate was to disseminate knowledge about legal employment, including among foreigners.

The evaluation study carried out after the end of the media campaign shows that the campaign message successfully reached target groups, as evidenced in particular by the increased interest in the possibility of using substantive information on the legality of employment offered by the National Labour Inspectorate, as well as free legal advice at the Counselling Centre of the National Labour Inspectorate.

# 5

## Summary





Compared to other EU countries, Poland is characterized by a very large number of seasonal workers – in 2018 there were 134,601 of them, including 46,417 working under the Directive on a seasonal work permit. Analyses have shown that they are very important for some sectors of the Polish economy (mainly agriculture). Polish migration policy is to a large extent focused on filling the gaps in low-skilled occupations, including agriculture. Such a model of demand for migrant workers resulted mainly from unfavourable demographic trends, accompanied by economic growth and low unemployment rate. The employment needs of seasonal workers are enormous – around 250,000-260,000, especially on farms specializing in horticulture, where 80% of employees are seasonal workers.

Of the two sectors of the economy in which seasonal workers work, as much as 97.95% of them in 2018 worked in agriculture, forestry and fisheries, and only 2.05% in activities related to accommodation and catering services. In the following 2019, a minimal increase in the share of accommodation and catering activities could be observed (up to 3.46%), however, the dominance of the agricultural sector is huge and no significant changes in this area are expected in the near future. Ukrainians clearly constitute the majority of seasonal workers in Poland since the introduction of seasonal work permit (almost 99%). Belarus, Moldova and Georgia are the next 3 countries from which seasonal workers came in 2018 and 2019. In the last year, we can observe the growing importance of Russian workers, while the importance of Nepal has decreased. The age distribution of seasonal workers in Poland is relatively balanced, e.g. in the case of directive seasonal work permits in 2018, people aged 35-44 accounted for 29%, 25-34 – 28% and 45-54 – 20%, while work permits are more often issued to women – the share of women increases with age, e.g. for directive seasonal work permits in 2018 women aged 18-24 accounted for 51%, 25-34 – 55%, 45-54 – 68% and 55- 59 – 70%. According to unofficial sources, the average salary in seasonal work in 2018 amounted to EUR 3.30 per hour, compared to the minimum hourly wage in Poland of approximately EUR 3, which is more than in the countries of origin of employees (e.g. 4 times more than in Ukraine). The average length of stay of third-country nationals granted a seasonal work

permit in 2018 ranged from 31 to 90 days – half of all workers stayed during this period. 19% of employees stayed from 91 to 180 days, 18% – up to 30 days, and 11% – over 180 days. In particular, seasonal work is performed mainly in spring, summer and early autumn due to the demand for agricultural work during this period.

In Poland, there is no need to take special measures to attract seasonal workers – they are encouraged by higher wages and proximity to their country of origin (in the case of Ukrainians who constitute 99% of seasonal workers). Migrants usually worked in sectors and occupations least attractive to Polish citizens. The needs concerned mainly jobs that did not require higher qualifications, mainly auxiliary workers in agriculture or unskilled workers in the hotel and catering industry and, to a lesser extent, in related professions with qualified manual labour. This is one reason why there are no annual limits, though in the event of a drastic change in the situation on the labour market, such a solution can be implemented. In order to facilitate the re-entry of seasonal workers, the employer may submit the so-called a multi-season application for a work permit, provided that he/she has commissioned a foreigner to work on the basis of a seasonal work permit at least once in the 5 years preceding the date of submitting the application. In this case, the application and the certificate of submission of the application may refer to 2 or 3 consecutive calendar years. The solution is available only to citizens of Armenia, Belarus, Georgia, Moldova, Russia and Ukraine. In the vast majority of cases, employers arrange the arrival of seasonal workers individually. Information on the procedures and legal framework is available at the websites of the Ministry of Family, Labour and Social Policy, its Contact Point for Citizens and the Information and Consultation Centre of Employment Services “Green Line”. One of the positives is the fact that more and more employment offices are introducing electronic forms, which significantly speeds up the procedure, which currently takes an average of 5 days.

The Seasonal Workers Directive protects seasonal workers and their rights at a high level in Poland. Due to the fact that they stay in Poland for a very short time, they are excluded from many benefits, but there are no practical difficulties in ensuring equal treatment in the areas specified in the directive. In Poland,

there are two most important entities related to the protection of the rights of seasonal workers: the National Labour Inspectorate (control of the legality of employment and working conditions) and the Border Guard (control of the legality of entry, stay and employment). Among other institutions, the most important role is played by specialized non-governmental organizations. Seasonal workers are informed of their rights in many ways. The National Labour Inspectorate provides free advice and information on labour law and legality of employment (also in Ukrainian). It also investigates the employees' complaints about employers' non-compliance with labour law, occupational health and safety and about illegal employment. Addresses and telephone numbers of local labour inspectorates (in each voivodship city) and regional offices (in other larger cities) can be found on the website [www.pip.gov.pl](http://www.pip.gov.pl). Any interested person, including a foreigner performing seasonal work, may submit a complaint to the National Labour Inspectorate about the entity entrusting the performance of work, which does not comply with the provisions of labour law, occupational health and safety or the legality of employment. In 2018, foreigners filed 2,320 complaints, in 951 cases they were justified. The dominant subject of the complaints was failure to pay remuneration to foreigners. In 2018, foreigners asked 4,808 questions about their rights, mainly by phone (2,351 cases). Two topics dominated in counselling: the legality of employing foreigners and remuneration for work and other benefits. In 2018, during inspections 1,438 cases of entrusting work illegally to a foreigner were found, i.e. in 18.4% of inspections carried out in this respect (in 2017 – in 14.8% of inspections). Illegal work was entrusted to 4,560 foreigners who are nationals of 37 third countries, which constitutes 11.5% of foreigners from those countries covered by the control (in 2017 it was 5,385 foreigners – 11.9%). Among foreigners illegally entrusted with work – 58 are people (including 53 citizens of Ukraine) who worked / should work on the basis of a seasonal work permit.

While the implementation of the directive on seasonal workers is assessed positively, there are some challenges in this area in Poland. After an internal

assessment based on the opinions of various stakeholders, e.g. the National Labour Inspectorate, Border Guard, employers' organizations (including the Polish Association of Fruit Growers, Polish Horticulture Association, Polish Federation of Cattle and Milk Breeders), agricultural producers, the Ministry of Agriculture and Rural Development, there are two main shortcomings of the directive: the burden of the seasonal work permit procedure and its scope (which professions should be covered). One of the remaining problems is the illegal performance of seasonal work, which is growing (18.4% in 2018 compared to 14.8% in 2017). The results of the inspection of the legality of employing foreigners indicate that one of the main reasons for irregularities related to entrusting work to foreigners is ignorance of the applicable law. The above statement largely applies to entities registered in the territory of the Republic of Poland by entrepreneurs from other countries, in particular from third countries (in particular by Ukrainian citizens). Recognizing the need to inquire about the applicable provisions on the legality of entrustment and performing work for both Polish citizens and foreigners, in 2017-2019, the National Labour Inspectorate carried out a 3-year information campaign "I work legally", which reached many seasonal workers. The campaign helped many seasonal workers to become aware of their rights, obligations and consequences resulting from non-compliance with regulations, e.g. illegal work.

It is difficult to predict the development of the COVID-19 pandemic and its consequences for seasonal workers. Seasonal migrant workers are one group whose situation was fragile before the crisis. However, in relation to Poland, where the demand for workers in the agricultural sector is constantly growing, they do not have to fear difficulties in finding a job in this sector. The situation is different in the second analysed sector – the hotel and catering industry. This sector has been and will be severely affected by the coronavirus related to the reduction in demand for the above-mentioned services due to government restrictions as well as avoiding human clusters during the pandemic.



