

CONDITIONS AND SCALE OF FOREIGNERS' EMPLOYMENT IN POLAND

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Abstract

Free movement of production factors is one of the main conditions of effective economy. This applies to capital as well as knowledge and labour. However, an influx of foreigners to the given country may lead to consequences which are compatible or incompatible with its economic and social interests. These consequences depend on the specific situation of the given country in various areas connected with the state of labour resources, economic trends and strategy, or the situation on the labour market.

The principal aim of the present article is to provide an insight into the rules for offering jobs to foreigners in Poland and to describe the phenomenon of their employment based on the data aggregated by the Ministry of Labour and Social Policy.

On the basis of the research conducted, a systematic increase in foreigners' employment in Poland could be observed in recent years (particularly as a part of the so-called simplified procedure applied to short-term employment). The largest group of foreigners are Ukrainians, who work mainly in agriculture, forestry, fishery, hunting, construction, retail and in household employing workers.

UWARUNKOWANIA I SKALA ZATRUDNIENIA CUDZOZIEMCÓW W POLSCE

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Słowa kluczowe: imigranci, cudzoziemcy, popyt na pracę cudzoziemców, rynek pracy w Polsce.

Abstrakt

Swobodny przepływ czynników produkcji jest jednym z głównych warunków efektywnego gospodarowania. Dotyczy to zarówno kapitału, wiedzy, jak i pracy. Napływ cudzoziemców do konkretnego kraju może jednak wywoływać następstwa zgodne lub niezgodne z jego interesami gospodarczymi i społecznymi. Zależy to od konkretnej sytuacji danego państwa w różnych obszarach

związanych ze stanem zasobów pracy, koniunkturą i strategią gospodarczą, czy też sytuacją na rynku pracy.

Nadrzędnym celem artykułu było przybliżenie zasad powierzania pracy cudzoziemcom w Polsce oraz scharakteryzowanie zjawiska ich zatrudniania, na podstawie danych agregowanych przez Ministerstwo Pracy i Polityki Społecznej.

Na podstawie przeprowadzonych badań stwierdzono systematyczny wzrost skali zatrudnienia cudzoziemców w Polsce notowany w ostatnich latach (szczególnie w ramach tzw. procedury uproszczonej dotyczącej krótkoterminowego zatrudnienia). Największą grupą cudzoziemców są Ukraińcy świadczący pracę głównie w rolnictwie, leśnictwie, rybactwie, łowiectwie, budownictwie, handlu oraz w gospodarstwach domowych zatrudniających pracowników.

Introduction

The demand for foreigners' labour in Poland and the principles of employing them have recently become a topic interest taken up more and more frequently, both by the academia, and by the representatives of state authorities. The phenomenon of the influx of labour immigrants and the interest in the work they offer from the representatives of the demand side of the labour market seems to be an incredibly interesting research topic. The questions very often asked in the public debate concern the present and the future role of foreigners on the labour market in Poland, and the justification for either stimulating the immigration processes or limiting their scale. Those questions invite an analysis of the scale and structure of foreigners' employment.

In the relevant source literature the multifarious consequences of the phenomenon of labour immigration are identified from the point of view of the receiving country. A frequently tackled issue is that of assessing the impact of foreigners' employment on the wages of the domestic workers, the size of employment or the unemployment rate. It should be emphasized that there is no consensus among scholars as regards the issue of the role labour immigrants play on the labour market – do they constitute a complimentary or substitutive resource compared with domestic workers? In one of his models, T.J. Hatton indicated that the influx of foreigners into the given labour market ultimately leads to the growth of labour resources and the resulting decrease in the wages obtained in the given economy (HATTON 2010). Other authors highlight, among other things, the diverse consequences of transferring labour resources, depending on whether the labour market of the receiving country is balanced or on the scale of unemployment characterizing it (JOŃCZY, KUBICIEL 2010, DILEO et al. 2013, LOSURDO et al. 2013).

Source literature argues that predicting the consequences of the phenomenon of foreigners' employment is a very difficult task. R.M. Friedberg and J. Hunt drew the conclusion that, as regards the impact of migration phenomena on the basic indexes characterizing the situation on the labour market,

prognoses to a large degree depend on the research models, which, obviously enough, are based on considerable simplifications and top-down assumptions (FRIEDBERG, HUNT 1995). This state of things encourages the academia to engage in empirical research. The multifaceted nature of the consequences of foreigners' employment was noted by, among others, S. CASTLES and M.J. MILLER (2009), T. BAAS, H. BRUCKER and A. HAUPTMANN (2010), G.J. BORJAS (1990), P. CORTES (2008), or M. KLEINMAN (2003).

Employing foreigners on the labour market in Poland is a phenomenon strictly regulated by the applicable laws and regulations, as a result of which a distinct tendency can be observed to categorize foreigners and at the same time to diversify the rules of access to the labour market for individual categories.

The aim of the present article is to provide a characteristics of the phenomenon of foreigners' employment in Poland as regards its rules, scale and structure. In the first part of the article the attention will be focused on defining the legal framework which establishes rules for employing foreigners in Poland. Next, the available data concerning the scale of foreigners' employment in Poland will be analysed and interpreted, and the methodological problems will be indicated as regards the comprehensive assessment of the phenomenon. The subsequent part of the article will be focused on analysing the structure of foreigners' employment in Poland from the point of view of individual sections of PKD in order to determine in which sector immigrants are employed most frequently. The article ends with a conclusion.

Foreigners' employment in light of Polish laws and regulations

From the vantage point of the receiving country, of great importance for the scale and nature of labour migrations is its immigration policy, whose rules are introduced via specific legislation.

In this part of the article an attempt will be made to present the most relevant rules for foreigners' employment in Poland. The laws regulating the granting of work permits to foreigners in Poland will be analysed as well as the cases where offering a job to a foreigner does not entail the necessity of obtaining a permit to employ him/her. Among the laws and regulations specifying the rules for foreigners' employment, the Act of 20 April 2004 on Employment Promotion and Labour Market Institutions, hereinafter referred to as the Act, and the most relevant implementing acts will be discussed.

As a member state of the European Union, Poland is obliged to respect the EU legal system, which entails full freedom of access to the Polish labour

market for the citizens of EU, other member states of the European Economic Area and Switzerland.

The second category comprises the so-called third country nationals, whose employment in Poland requires obtaining a work permit (DUSZCZYK 2012). In addition, the Act specifies in art. 87, item 2, points 1–9, the categories of foreigners exempt from the obligation to obtain a work permit (ustawa z 20 kwietnia 2004 r. o promocji zatrudnienia i instytucjach rynku pracy, DzU z 2004 r., nr 99, poz. 1001).

The work permit is required if the foreigner:

- carries out work within the territory of the Republic of Poland on the basis of a contract with an entity whose registered office or place of residence, or branch, establishment, or other form of organized activity, is located within the territory of the Republic of Poland;

- performs duties on the board of a legal entity entered into the Register of Entrepreneurs or of a corporation, and resides in the territory of the Republic of Poland for a period exceeding 6 months in total in the course of 12 consecutive months;

- carries out work for the foreign employer and is delegated to the territory of the Republic of Poland for a period exceeding 30 days in a calendar year, to a branch or establishment of a foreign entity or a related entity, under the Act of 26 July 1991 on Personal Income Tax, with the foreign employer;

- carries out work for the foreign employer who does not have a branch, establishment or other form of organized activity within the territory of the Republic of Poland and is delegated to the territory of the Republic of Poland in order to provide a temporary and occasional service (export service);

- carries out work for the foreign employer and is delegated to the territory of the Republic of Poland for a period exceeding 3 months in the course of 6 consecutive months for a purpose other than indicated in points 2–4 (ustawa z 20 kwietnia 2004 r. o promocji zatrudnienia i instytucjach rynku pracy, DzU z 2004 r., nr 99, poz. 1001).

Article 90 of the Act enumerates factors and criteria for an obligatory specification of situations in which employing foreigners within the territory of the Republic of Poland is allowed without the necessity of granting a work permit. They refer to the specific aspects of the job performed, the nature of the labour and its duration, international contracts and agreements or international training and consulting programs (ustawa z 20 kwietnia 2004 r. o promocji zatrudnienia i instytucjach rynku pracy, DzU z 2004 r., nr 99, poz. 1001).

Among the exceptional situations specified in the notice by the Minister of Labour and Social Policy, in which employing a foreigner is allowed without the necessity of granting a work permit, several professional and social groups were singled out. These include:

- teachers of foreign languages, academic teachers, persons providing trainings;
- foreign correspondents of mass media;
- students, under circumstances specified in the regulation;
- sportspersons and persons carrying out work in connection with sports events;
- persons performing artistic services;
- clergymen carrying out work in connection with their religious duties;
- members of the armed forces or civil personnel who work in international military structures within the territory of the Republic of Poland;
- workers delegated for a period not exceeding 3 months;
- persons carrying out work for members of the European Parliament;
- citizens of Armenia, Belarus, Georgia, Moldova, Russia and Ukraine carrying out work during a period not exceeding 6 months in the course of 12 consecutive months based on the employer's declaration of willingness to employ a foreigner (the so-called simplified procedure).

A detailed list of professional groups, together with clearly defined criteria, is included in the above mentioned notice (obwieszczenie ministra pracy i polityki społecznej z 30 grudnia 2014 r....).

Scale and structure of foreigners' employment in Poland

A general assessment of the scale of foreigners' employment in Poland is currently not possible. This is due to the impossibility of estimating the scale of employment of citizens of European Union member states, the remaining countries of the European Economic Area and the Confederation of Switzerland, who have free access to the labour market in Poland (PIOTROWSKI, ORGANIŚCIAK-KRZYKOWSKA 2014).

The number of the citizens of European Economic Area and Switzerland in Poland can be estimated only on the basis of the number of registered residence exceeding three months and on the basis of the number of insured persons who, in a relevant insurance form, indicated citizenship other than Polish (*Informacja w sprawie zatrudnienia obywateli...* 2011). However, one should be aware of the limited reliability of the above data as regards the scale of employment of this group of foreigners on the labour market in Poland.

The basic source of the partial information on the scale and structure of foreigners' employment in Poland are the data aggregated by the Ministry of Labour and Social Policy. They include the category of foreigners who do not have freedom of access to the labour market in Poland, and therefore can carry out work on the basis of work permits or on the basis of employers' declarations of their intention to employ them.

In the graph below changes were presented as regards the number of work permits for foreigners in Poland (Fig. 1).

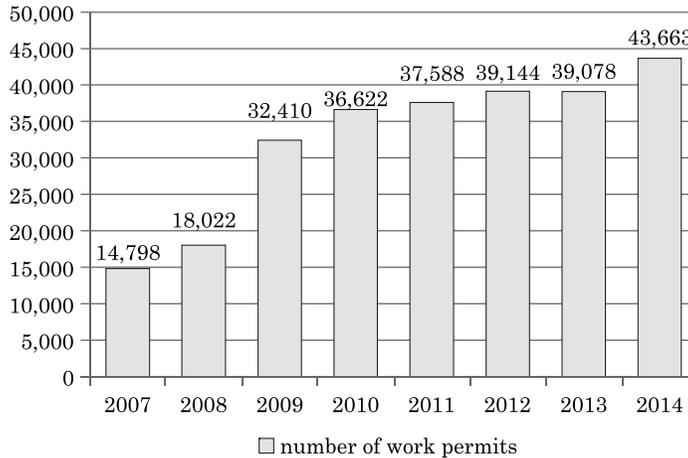


Fig. 1. Work permits for foreigners issued in Poland in the years 2008–2014

Source: based: Ministerstwo Rodziny, Pracy i Polityki Społecznej, *Cudzoziemcy pracujący w Polsce – statystyki*, <http://www.mpips.gov.pl/analizy-i-raporty/cudzoziemcy-pracujacy-w-polsce-statystyki/> (access: 11.12.2015).

In the past seven years Poland saw a distinct increase in the number of foreigners employed on the basis of work permits. In 2008 more than 18 thousand work permits were granted, while the year 2014 brought a record-breaking number of 43 thousand work permits.

The graph below shows the changes in the number of employers' declarations of intention to employ foreigners, submitted in district employment offices (Fig. 2).

Taking up employment by foreigners in Poland on the basis of the so-called simplified procedure is clearly much more popular than doing it on the basis of a work permit. The simplified procedure was intended to meet the seasonal shortages of work supply quickly (KUBICIEL-ŁODZIŃSKA 2013). In the first year after the above mentioned procedure was introduced, nearly 157 thousand employers' declarations of intention to employ a foreigner were registered in district employment offices. In the years 2012–2013 the number of submitted declarations stabilised at ca 240 thousand annually. However, the year 2014 saw an unprecedented increase in the number of submitted declarations. Particularly relevant information can be gathered from an analysis of mid-year data for 2015. It turns out that from January to June more than 410 thousand declarations were submitted in district employment offices by employers interested in employing foreigners on the basis of the simplified procedure.

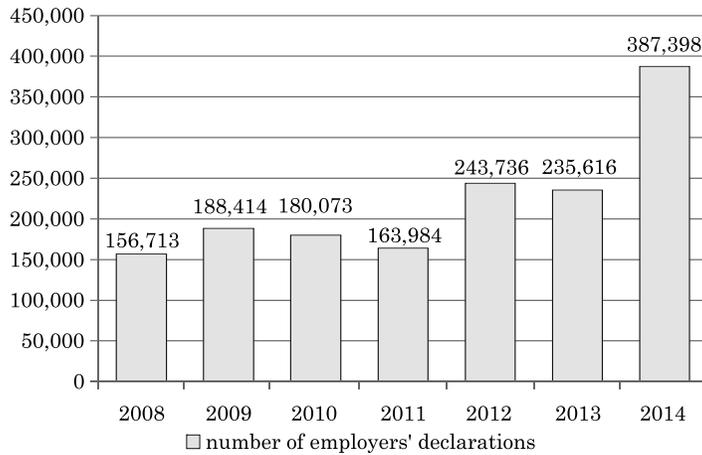


Fig. 2. Employers' declarations of intention to employ foreigners in Poland in the years 2008–2014
 Source: based: Ministerstwo Rodziny, Pracy i Polityki Społecznej, *Cudzoziemcy pracujący w Polsce – statystyki*, <http://www.mpips.gov.pl/analizy-i-raporty/cudzoziemcy-pracujacy-w-polsce-statystyki/> (access: 11.12.2015).

In order to find reasons for such a dramatic increase in the number of registered declarations, one should, above all, point out to the unstable political and economic situation in Ukraine, as a result of which the citizens of this country got even more interested in carrying out work in Poland (372,946 declarations submitted in 2014, compared to 217,571 declarations submitted in the preceding year) (PIOTROWSKI, MACHNIS-WALASEK 2014). The increase in the total number of employers' declarations of intention to employ foreigners was not influenced by the prospective employment of citizens of Russia, Belarus, Moldova and Georgia; all of the above mentioned countries saw an actual decrease in the number of declarations submitted in 2014 compared to the preceding year). The addition of the Republic of Armenia to the list of countries whose citizens are allowed to work in Poland on the basis of the simplified procedure did not have a significant impact on the phenomenon under discussion, either (in 2014 774 employers' declarations concerning foreigners' employment in Poland were submitted, which constituted ca 0.2% of the total number of declarations).

In order to provide a characteristics of the structure of foreigners' employment in Poland, the following diagrams juxtapose sections of PKD in which the biggest increase of foreigners' employment is noted (Tab. 1, 2).

Foreigners carrying out work in Poland on the basis of work permits are most frequently employed in construction, trade and households employing workers.

Table 1

Work permits for foreigners according to selected sections of PKD in Poland in the year 2014

Section of PKD	Number of permits granted	The percentage share of section in the total number of permits granted
Construction	7,084	16.2%
Wholesale and retail trade	6,610	15.1%
Households employing workers	5,780	13.2%
Transport and warehouse management	4,291	9.8%
Accommodation and food service activities	2,835	6.5%
Agriculture, forestry, hunting, fishery	2,333	5.3%

Source: based: Ministerstwo Rodziny, Pracy i Polityki Społecznej, Cudzoziemcy pracujący w Polsce – statystyki, <http://www.mpips.gov.pl/analizy-i-raporty/cudzoziemcy-pracujacy-w-polsce-statystyki/> (access: 11.12.2015).

Table 2

Employers' declarations of intention to employ a foreigner according to selected sections of PKD in Poland in 2014

PKD Section	Number of submitted declarations	The share of sections in the total number of submitted declarations [%]
Agriculture, forestry, hunting and fishery	178,246	46.0
Construction	54,775	14.1
Industrial processing	44,151	11.4
Administrative and support service activities	33,007	8.5
Wholesale and retail trade	16,172	4.2
Households employing workers	12,783	3.3

Source: based: Ministerstwo Rodziny, Pracy i Polityki Społecznej, Cudzoziemcy pracujący w Polsce – statystyki, <http://www.mpips.gov.pl/analizy-i-raporty/cudzoziemcy-pracujacy-w-polsce-statystyki/> (access: 11.12.2015).

Foreigners carrying out short-term work in Poland (in accordance with the so-called simplified procedure) are employed most frequently in the sections characterised by seasonal peaks. In 2014, similarly to the previous years, the „Agriculture, forestry, hunting and fishery” section played a dominant role.

Conclusion

The systematically increasing demand for foreigners' labour observed in recent years probably results from a number of various determinants. Among them there are factors connected with the demand side of the labour market (employers' growing interest in offering jobs to foreigners), factors related to the supply side (the growing influx of foreigners due to, among other things, Poland's membership in the Schengen area and a relatively stable economic and political situation), demographic and structural factors (the segmentation of the labour market and related reluctance on the part of domestic workers to perform jobs in the so-called secondary segment jobs). Factors of an institutional nature – e.g., a distinct liberalization of the rules governing foreigners' access to the labour market in Poland – play a significant role in stimulating the scale of influx of labour immigrants, too.

It should be stressed that immigrants employed on the basis of the so-called simplified procedure constitute a decidedly largest group of foreigners carrying out work in Poland. 96% of the group are Ukrainians, which means that the share of other nationalities entitled to work in Poland on the basis of the employer's declaration of intention to employ a foreigner can be considered marginal. Employment on the basis of work permits amounted to ca 40 thousand in the course of the last year, which can be justified above all by time-consuming administrative procedures involved in granting them.

Foreigners working in Poland are employed predominantly in agriculture, forestry fishery, hunting, construction, trade, and in households employing workers.

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