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The principle of complementarity in the new labour market access regulations for foreigners: a reaffirmation or a mirror reversal?

Keywords: employment of foreigners; labour market; principle of complementarity

Summary. This paper examines the principle of complementarity in the context of recent legislative reforms governing access to the Polish labour market for foreign nationals. The analysis focuses on the period preceding and following the adoption of the Act on the conditions of admissibility of the employment of foreigners in the territory of the Republic of Poland, highlighting the normative evolution of regulatory instruments. Drawing on a comparative legal perspective, the study explores whether the changes introduced constitute a reaffirmation of the existing regulatory approach or mark a departure therefrom – amounting to a *mirror reversal* of the previously applicable framework. Special attention is given to the shift from automatic, mandatory restrictions such as the labour market test to discretionary mechanisms whose activation depends on the intervention of public authorities. By identifying structural continuities and discontinuities in the application of the complementarity principle, the paper contributes to a broader understanding of the current direction of Poland's migration and labour market policy, as well as the underlying assumptions guiding the employment of third-country nationals.

Zasada komplementarności w nowych regulacjach dostępu cudzoziemców do rynku pracy: powielenie czy lustrzane odbicie?

Słowa kluczowe: zatrudnienie cudzoziemców, rynek pracy, zasada komplementarności

Streszczenie. W niniejszym artykule przeanalizowano zasadę komplementarności w kontekście ostatnich reform legislacyjnych regulujących dostęp obcokrajowców do polskiego rynku pracy. Analiza koncentruje się na okresie poprzedzającym i następującym po uchwaleniu ustawy o warunkach dopuszczania powierzenia pracy cudzoziemcom na terytorium RP, podkreślając ewolucję normatywną instrumentów regulacyjnych. Opierając się na perspektywie prawa porównawczego, w badaniu analizuje się, czy wprowadzone zmiany stanowią potwierdzenie dotychczasowego podejścia regulacyjnego, czy też oznaczają odejście od niego – co byłoby równoznaczne z całkowitym odwróceniem dotychczas obowiązujących ram. Szczególną uwagę poświęcono przejściu od automatycznych, obowiązkowych ograniczeń, takich jak test rynku pracy, do mechanizmów dyskrejonalnych, których uruchomienie zależy od interwencji organów publicznych. Poprzez identyfikację strukturalnej ciągłości i nieciągłości w stosowaniu zasady komplementarności, artykuł przyczynia się do szerszego zrozumienia obecnego kierunku polskiej polityki migracyjnej i polityki rynku pracy, a także podstawowych założeń regulujących zatrudnianie obywateli państw trzecich.

1. Contextual background

In line with prevailing legal and policy trends, the presence of foreign nationals within the Polish labour market continues to expand. This development is substantiated by data from the national social insurance institution¹, which recorded nearly 1.193 million foreigners as registered contributors by the end of 2024 – an increase of approximately 65,000 compared to the end of 2023.

At present, it remains legally and empirically uncertain whether the dominant trajectory will involve a further intensification of economically motivated migration, or whether an increasing proportion of migrants will enter Poland for reasons other than employment, but subsequently require integration into the domestic labour market. This indeterminacy stems largely from the current political and regulatory narrative, which aims to promote rather restrictive approach to labour migration.

A governmental policy document “*Take back control. Ensure security*” – *migration strategy 2025 – 2030*² published in October 2024 expressly states that Poland adopts the position whereby demographic and social pressures on the labour market are not to be mitigated through immigration policy instruments. Furthermore, it is emphasised that an overly permissive migration policy ought not to impede the processes of economic modernisation and automation, which are regarded as essential to enhancing national competitiveness.

Conversely, the same document affirms that access to the Polish labour market will remain available to foreign workers where justified by labour shortages, particularly in occupations formally recognised as shortage or hard-to-fill roles. Specific legislative and administrative frameworks are to be developed for professions experiencing chronic deficits. The principal rationale offered for such an approach is the short-term necessity of preserving the competitiveness of the Polish economy.

Although the aforementioned document does not contain an implementation plan for the assumptions it outlines, and devotes merely three pages and three lines to matters concerning the access of foreign nationals to the labour market, the preliminary direction of future changes may nonetheless be inferred from ongoing legislative developments. The Act on the conditions of permissibility for the employment of foreign nationals within the territory of the Republic of Poland³ (later on as: Act on EoF), along with the amendments it introduces to

¹ Zakład Ubezpieczeń Społecznych, *Ubezpieczenia emerytalne i rentowe*, <https://psz.zus.pl/kategorie/ubezpieczeni/ubezpieczenia-emerytalne-i-rentowe> [access: 29.09.2025].

² Rada Ministrów, “*Odzyskać kontrolę. Zapewnić bezpieczeństwo*” – *strategia migracyjna na lata 2025-2030*, <https://www.gov.pl/web/premier/odzyskac-kontrolę-zapewnić-bezpieczeństwo---strategia-migracyjna-na-lata-2025---2030> [access: 29.09.2025].

³ Journal of Laws of 2025, item 621.

existing legal instruments, provides a legitimate basis for questioning the current formulation of the principle of complementarity in relation to foreigners' access to the labour market.

From the perspective of labour market policy mechanisms governing the employment of foreign nationals⁴, it is therefore pertinent to determine whether the recent legislative solutions constitute a continuation of the existing regulatory framework or whether they mark a departure therefrom and introduce a new normative approach. Resolving this issue will allow for an assessment of whether the changes amount to a reaffirmation of the prevailing interpretative line or to its redefinition – effectively altering the role of the complementarity principle within the legal system regulating access to employment for third-country nationals.

Consequently, such an analysis may serve not only to reconstruct the current model of labour migration policy but also to evaluate the coherence of the newly adopted measures with the declared objectives of the state's policy agenda.

In my analysis, I omit regulations concerning Ukrainian citizens on the Polish labour market, as outlined in the Act of 12 March 2022 on assistance to Ukrainian citizens in connection with armed conflict on the territory of Ukraine, due to their exceptional and temporary nature, aimed at addressing the immediate humanitarian crisis. These provisions create a separate legal framework distinct from regular foreign labour market regulations, which are the focus of this study⁵.

2. Development of the principle of complementarity in foreign nationals' access to the Polish labour market

The phenomenon of complementarity – also referred to as the *principle of complementarity* – is understood as the notion that the employment of foreign nationals serves a supplementary function. Economic migrants are thus expected to fill shortages in the domestic labour supply. This concept stands in contrast to that of substitutability, which is characterised by the perception that immigrants constitute a source of competition for native workers, displacing domestic labour market participants⁶.

⁴ I. Florczak, *The Polish migration policy from the perspective of the law regulating the area of the labour market. Unobvious aspects and recent changes*, "Praca i Zabezpieczenie Społeczne" 2022, n. 4, pp. 3-9.

⁵ See: I. Florczak, *Obowiązywanie zasady komplementarności w dostępie cudzoziemców do polskiego rynku pracy na gruncie PomocUkrainaU*, [in:] *Pobyty i zatrudnianie cudzoziemców w Polsce. Rozwiązania wynikające z ustawy o pomocy obywatelom Ukrainy*, ed. I. Florczak, Warszawa 2022, pp. 5-9.

⁶ D. Kałuża-Kopias, *Imigranci na polskim rynku pracy według statystyk MPiPS*, „Studia Ekonomiczne. Zeszyty Naukowe Uniwersytetu Ekonomicznego w Katowicach” 2016, nr 258, p. 18.

At the global level, observations of foreign employment patterns support the assumption that migrants tend to choose destinations where employment opportunities are readily available, thereby responding to gaps in labour supply. Regardless of whether migrants are highly or low-skilled, they seldom directly replace native workers⁷. Rather, they frequently take on positions that domestic workers are unwilling or unable to perform⁸.

The principle of complementarity can be interpreted in two distinct ways. Firstly, it can refer to the priority of hiring people already in the labour market (including foreigners). Secondly, it can refer to native workers themselves. In the ensuing discourse, both of these variants will be analysed. From a professional standpoint, the principle of complementarity may encompass any activity, including business, or alternatively, only that which constitutes work for another's account. The subsequent analysis will be focused exclusively on the latter variant.

A historical overview of legal regulations concerning the employment of foreign nationals indicates that the complementary nature of such employment has long been embedded in the legislative framework. Article 33 of the Act of 29 December 1989 on employment⁹ stipulated that enterprises could employ foreigners within the territory of the Polish People's Republic provided they obtained authorisation from the provincial employment authority. In issuing such authorisation, the authority was required to consider the situation of the labour market, including whether there were any domestic workers capable of performing the work intended to be assigned to a foreign national.

A similar provision was found in Article 50 of the Act of 16 October 1991 on employment and unemployment¹⁰. Under this regulation, enterprises or private individuals were permitted to employ foreign nationals or assign them paid services within the territory of the Republic of Poland upon obtaining a permit from the relevant provincial labour office. The decision-making process involved an assessment of the labour market situation as well as consultation with the provincial employment council.

Likewise, the Act of 14 December 1994 on employment and counteracting unemployment¹¹ made explicit reference to the principle that, in issuing promises and permits for foreign employment, account should be taken of the conditions of the local labour market and the need to protect the Polish workforce.

⁷ E. Bielak-Jomaa, *Zatrudnienie cudzoziemców*, Warszawa 2015, p. 44.

⁸ See: A.F. Constant (2014), *Do migrants take the jobs of native workers?*, IZA World of Labour 2014: 10, 2014.

⁹ Journal of Laws No. 75, item 446, as amended.

¹⁰ Journal of Laws No. 106, item 457, as amended.

¹¹ Consolidated text. Journal of Laws of 2003. No. 58, item 514, as amended.

The initial wording of the Act on employment promotion and labour market institutions¹² similarly provided that promises and permits for the employment of foreign nationals were to be issued by the voivode, taking into consideration the situation on the local labour market (Article 88(7)). The voivode was also entitled, where justified by labour market conditions, to restrict the scope of permitted work to managerial and representative functions within the relevant entity. Furthermore, the voivode could consider the broader utility of the entity in question to the labour market and the national economy.

The principle of complementarity is *explicite* expressed in the following provisions, which will be analysed in more detail below:

- 1) Articles 114a and 127a of the Act on foreigners,
- 2) Article 90b of the Act on employment promotion and labour market institutions, referring to the complementary employment of foreigners in relation to Polish citizens.

The contextual and legislative background outlined above provides a foundation for examining the mechanisms through which the principle of complementarity in foreign nationals' access to the labour market was implemented prior to the enactment of the current legislation¹³.

3. The principle of complementarity in the legal framework prior to the Act on EoF

The regulation of the principle of complementarity can take two forms. It may involve restrictions on access to the labour market or, alternatively, it may introduce facilitations in this regard. Such regulations may either apply automatically or be implemented under specific circumstances.

This section of the study will outline the legal variants governing the principle of complementarity in foreign nationals' access to the labour market in the legal framework immediately preceding the enactment of the Act on EoF.

To help capture the context, this analysis will be presented in the form of a table.

¹² Journal of Laws No. 99, item 1001.

¹³ See also: I. Florczak, (2019) *Zasada komplementarności w dostępie cudzoziemców do polskiego rynku pracy*, [in:] *Różnorodność w jedności. Studia z zakresu prawa pracy, zabezpieczenia społecznego i polityki społecznej. Księga pamiątkowa dedykowana Profesorowi Wojciechowi Muszalskiemu*, eds. B. Godlewska-Bujok, K. Walczak, Warszawa 2019, pp. 223-232.

Table 1. Summary of regulations concerning the implementation of the principle of complementarity in the access of foreigners to the labour market in the period prior to the Act on EoF

Place of regulation	Restriction/facilitation of access of foreigners to the labour market and its type	Method of activating the restriction/facilitation (resulting from applicable regulations or requiring the issuance of a legal act)	Additional information
<p>Article 88c(1)(2) of the Act on employment promotion and labour market institutions.</p> <p>Article 114(1)(4) of the Act on foreigners.</p>	<p>Restriction.</p> <p>The need for the entity entrusting the performance of work to prove the inability to meet staffing needs on the local labour market (so called “labour market test”).</p> <p>This restriction applies to temporary residence and work permits and work permits. However, it does not apply to the very popular basis for legalising the work of foreigners – the declaration on the entrustment of work to a foreigner¹⁴.</p>	<p>Resulting from the applicable regulations.</p>	<p>A number of exceptions to the necessity to apply the solution are provided for, <i>inter alia</i> under the Regulation of the Minister of Labour and Social Policy of 29.1.2009 on determining cases in which a work permit for foreigners is issued without regard to the detailed conditions for issuing work permits for foreigners.</p>
<p>Article 88ca and 88cb of the Act on employment promotion and labour market institutions.</p>	<p>Facilitation.</p> <p>The minister responsible for economy may determine, by way of a regulation, a list of entrepreneurs conducting activities of strategic importance for the national economy, taking into account the needs of the national economy and the subject of the entrepreneur’s activity. In such a situation, the voivode considers applications for a work permit, taking into account the priority of foreigners who are to work for entrepreneurs specified in such a list.</p>	<p>Requiring the issuance of a legal act. The issue of the act is not mandatory and depends on the national economy.</p>	<p>The ability to activate the solution was never used.</p>

¹⁴ In 2024, 428,188 such declarations were entered in the registers, Ministerstwo Rodziny, Pracy i Polityki Społecznej, *Oświadczenia o powierzeniu wykonywania pracy cudzoziemcowi, wpisane do ewidencji oświadczeń (obowiązujące od 2018 r.)*, https://psz.praca.gov.pl/rynek-pracy/statystyki-i-analizy/zatrudnianie-cudzoziemcow-w-polsce/-/asset_publisher/MDNO4TyL2uZj/content/81-80211-oswiadczenia-o-powierzeniu-wykonywania-pracy-cudzoziemcowi-wpisane-do-ewidencji-oswiadczen-obowiazujace-od-2018-r-?p_r_p_assetEntryId=8180215 [access: 29.09.2025].

<p>Article 90(4) of the Act on employment promotion and labour market institutions.</p>	<p>Facilitation. The minister responsible for labour determines, by way of a regulation, the cases in which entrusting a foreigner with work on the territory of the Republic of Poland is permissible without the need to obtain a work permit, taking into account, among m.in, the specificity of the profession, the nature of the work, the period of work, the requirements for the entity entrusting the performance of work.</p>	<p>Requiring the issuance of a legal act. The issuing of the act is mandatory.</p>	<p>The solution was introduced by the Regulation of the Minister of Labour and Social Policy of 21 April 2015 on cases in which entrusting work to a foreigner on the territory of the Republic of Poland is admissible without the need to obtain a work permit.</p>
<p>Article 90(5) of the Act on employment promotion and labour market institutions.</p>	<p>Facilitation. The minister responsible for labour may determine, by way of a regulation, the cases in which a work permit is issued by the voivode regardless of the conditions referred to in Article 88c (including the need to carry out the so-called labour market test), guided in particular by the principle of reciprocity, the specificity of the profession or the nature of the work.</p>	<p>Requiring the issuance of a legal act. The issue of the act is not mandatory and depends on i.e. profession or the nature of the work.</p>	<p>The solution was introduced by the Regulation of the Minister of Labour and Social Policy of 29 January 2009 on determining the cases in which a work permit for a foreigner is issued regardless of the detailed conditions for issuing work permits for foreigners.</p>
<p>Article 90(10) of the Act on employment promotion and labour.</p>	<p>Facilitation. The minister competent for labour will determine, by way of a regulation: countries for whose citizens: 1) a seasonal work permit is issued without the so-called labour market test; 2) the application for a seasonal work permit is entered into the register of applications for seasonal work for a 3 years period; 3) countries whose citizens may perform work without a work permit on the basis of a declaration on entrusting work to a foreigner entered in the register of declarations.</p>	<p>Requiring the issuance of a legal act. The issuing of the act is mandatory and its scope depends on the goals of Polish migration policy.</p>	<p>The solution was introduced by the Regulation of the Minister of Family, Labour and Social Policy of 8 December 2017 on the countries to whose citizens certain provisions on seasonal work permits and provisions on the declaration on entrusting work to a foreigner apply.</p>

<p>Article 90b(1) of the Act on employment promotion and labour.</p>	<p>Restriction. The minister responsible for labour, in consultation with the minister in responsible for economy and the minister responsible for internal affairs, may determine, by way of regulation, the maximum number of work permits that may be issued by voivodes in a given calendar year, taking into account, m.in, the needs of the labour market and the principle of complementarity of employment of foreigners in relation to Polish citizens.</p>	<p>Requiring the issuance of a legal act. The issue of the act is not mandatory and depends on i.e. needs of the labour market.</p>	<p>The ability to activate the solution was never used. The limits set out in the regulation may apply to individual provinces, professions, types of contracts under which a foreigner may be entrusted with the performance of work, or types of activity of the entity entrusting the performance of work to a foreigner according to the PKD classification.</p>
<p>Article 90b(2) of the Act on employment promotion and labour.</p>	<p>Restriction. The minister responsible for labour, in consultation with the minister responsible for agriculture, the minister responsible for economy and the minister competent for internal affairs, may determine, by way of regulation, the maximum number of seasonal work permits that may be issued in a given calendar year, taking into account the needs of the labour market, considerations of national security and public order, and the principle of complementarity of employment of foreigners in relation to Polish citizens.</p>	<p>Requiring the issuance of a legal act. The issue of the act is not mandatory and depends on i.e. needs of the labour market.</p>	<p>The ability to activate the solution was never used. The limits may apply to individual provinces, professions, types of contracts under which a foreigner may be entrusted with the performance of work, or types of activity of the entity entrusting the performance of work to a foreigner according to the PKD classification.</p>
<p>Article 90b(3) of the Act on employment promotion and labour.</p>	<p>Restriction. The minister com responsible for labour, in consultation with the minister responsible for economy and the minister responsible for internal affairs, may determine, by way of a regulation, the maximum number of declarations on entrusting work to foreigners, which in a given calendar year may be entered into the register of declarations by starosts, taking into account,</p>	<p>Requiring the issuance of a legal act. The issue of the act is not mandatory and depends on i.e. needs of the labour market.</p>	<p>The ability to activate the solution was never used. The limits may apply to individual provinces, professions, types of contracts under which a foreigner may be entrusted with the performance of work, or types of activity of the entity entrusting the performance of</p>

	among m.in, the needs of the labour market and the principle of complementarity of employment of foreigners in relation to Polish citizens.		work to a foreigner according to the PKD classification.
Article 77(11) and Article 77(12) of the Act on foreigners.	<p>Facilitation.</p> <p>The minister responsible for foreign affairs may determine, by way of a regulation, professions, types of contracts on the basis of which a foreigner may be entrusted with the performance of work, or types of activities of the entity entrusting the performance of work, in the case of which it is obligatory to accept applications for the issuance of a national visa for the purpose of work out of turn.</p> <p>The regulation takes into account the current needs of the Polish labour market.</p>	Requiring the issuance of a legal act. The issue of the act is not mandatory and depends on i.e. needs of the labour market.	<p>The ability to activate the solution was never used.</p> <p>When specifying professions, the minister may also indicate the countries in which applications for the issuance of a national visa for the purpose of work are accepted from citizens of these countries out of turn.</p>
Article 114(5) of the Act on foreigners.	<p>Facilitation.</p> <p>The minister responsible for labour, in consultation with the minister responsible for economy, may determine, by way of a regulation, occupations desirable for the Polish economy, taking into account the needs of the labour market, including the need to ensure effective employment in occupations with significant shortages of workers nationwide.</p>	The issue of the act is not mandatory and depends on i.e. needs of the labour market.	<p>The ability to activate the solution was never used.</p> <p>If the regulation is issued, foreigners to whom it applies are not subject to the obligation to carry out the so-called labour market test.</p>
Article 114a of the Act on foreigners.	<p>Restriction.</p> <p>The minister responsible for internal affairs, in consultation with the minister responsible for labour and the minister responsible for economy, may determine, by way of a regulation, taking into account, i.e. the needs of the labour market and the principle of complementarity of employment of foreigners in relation to Polish citizens.</p>	The issue of the act is not mandatory and depends on i.e. needs of the labour market.	<p>The ability to activate the solution was never used.</p> <p>The limit may include individual provinces, professions, types of contracts on the basis of which a foreigner may be entrusted with work, or types of activity of the entity entrusting work to a foreigner.</p>

<p>Article 127a of the Act on foreigners.</p>	<p>Restriction. The minister responsible for internal affairs, in consultation with the minister responsible for labour and the minister responsible for economy, may determine, by way of a regulation, the limit of temporary residence permits granted for the first time in a given calendar year for the purpose of performing work in a profession requiring high qualifications, taking into account, i.e. the needs of the labour market and the principle of complementarity of employment of foreigners in relation to Polish citizens.</p>	<p>The issue of the act is not mandatory and depends on i.e. needs of the labour market.</p>	<p>The ability to activate the solution was never used. The limit may include individual provinces, professions, types of contracts under which a foreigner may be entrusted with the performance of work, or types of activities of the entity entrusting the performance of work to a foreigner.</p>
<p>Article 139b of the Act on foreigners.</p>	<p>Restriction. The minister responsible for internal affairs, in consultation with the minister responsible for labour and the minister responsible for economy, may determine, by way of a regulation, the limit of temporary residence permits granted for the first time in a given calendar year for the purpose of performing work as part of an intra-corporate transfer, taking into account the needs of the labour market.</p>	<p>The issue of the act is not mandatory and depends on i.e. needs of the labour market.</p>	<p>The ability to activate the solution was never used. The limit may include individual provinces, professions or types of activities of the host entities.</p>

Among the listed instruments concerning the principle of complementarity in the access of foreigners to the labour market:

- 1) 7 concerned solutions limiting access to the labour market, of which 1 was in force, and 6 were not introduced;
- 2) 6 concerned solutions facilitating access to the labour market, of which 3 were in force (including one introduced as non-mandatory) and 3 were not introduced.

It follows from the foregoing that, although the regulations envisaged broader possibilities for restricting access to the labour market, such measures were not in fact implemented. Moreover, the prevailing labour market conditions did not incentivise the competent authorities to adopt optional mechanisms aimed at facilitating such access – only one such instrument was introduced pursuant to Article 90(5) of the Act on employment promotion and labour market institutions.

4. The principle of complementarity in the legal framework based on the Act on EoF

The provisions of the Act on the conditions of admissibility of entrusting work to foreigners on the territory of the republic of Poland introduce numerous changes to the system related to the employment of foreigners – including the Act on Foreigners.

The first significant change is the abandonment of the so-called labour market test. As indicated in the explanatory memorandum to the Act on EoF, this is to speed up and simplify the procedure for issuing a work permit¹⁵ and a temporary residence and work permit, as from the Article 114 of the Act on Foreigners the requirement to demonstrate the inability to meet the staffing needs of the entity entrusting work to a foreigner on the local labour market was removed. Therefore, the instruments related to the implementation of the principle of complementarity in the access of foreigners to the labour market, which remained in force¹⁶ and those that were added, will be presented below.

Table 2. Summary of regulations concerning the implementation of the principle of complementarity in the access of foreigners to the labour market based on the Act on EoF

Place of regulation	Restriction/facilitation of access of foreigners to the labour market and its type	Method of activating the restriction/facilitation (resulting from applicable regulations or requiring the issuance of a legal act)	Additional information
Article 3(4) of the Act on EoF.	Restriction. The minister responsible for labour, at the request of the minister responsible for internal affairs or the minister responsible for foreign affairs, may determine, by way of a regulation, a list of countries whose citizens holding a work permit are not entitled to perform work during their stay in the territory of the Republic of Poland under visa-free travel.	Requiring the issuance of a legal act. The issue of the act is not mandatory and depends on i.e. threat to public safety and order.	A new regulation that has not been implemented at the time of work on the article.

¹⁵ Druk Sejmowy Sejmu X kadencji, *Uzasadnienie*, <https://www.sejm.gov.pl/sejm10.nsf/PrzebiegProc.xsp?nr=949>, p. 9 [access: 29.09.2025].

¹⁶ In the case of unchanged regulation, the description is shortened.

Article 3(7) of the Act on EoF.	<p>Facilitation.</p> <p>The minister responsible for labour will determine, by way of a regulation, special cases in which a foreigner entitled to stay in the territory of the Republic of Poland may perform work without a work permit or a declaration on entrusting work to a foreigner.</p>	<p>Requiring the issuance of a legal act.</p> <p>The issue of the act is mandatory and its scope depends on i.e. the specificity of the profession, the nature of work, the period of work, the requirements for the entity entrusting work to a foreigner.</p>	<p>A new regulation that has not been implemented at the time of work on the article.</p>
Article 3(8) of the Act on EoF.	<p>Facilitation.</p> <p>The minister responsible for labour, in consultation with the minister responsible for internal affairs, will specify by way of regulation the countries:</p> <ol style="list-style-type: none"> 1) whose nationals may be covered by a declaration on the intention to entrust work to a foreigner; 2) whose nationals may be subject to the regulation under which an application for the issuance of a seasonal work permit is entered into the register of applications for a period of three years (pursuant to Article 53 of Act on EoF), and who may be entrusted with other types of work during the period of employment under such a permit (pursuant to Article 56 of Act on EoF). 	<p>Requiring the issuance of a legal act.</p> <p>The issue of the act is mandatory and its scope depends on the goals of Polish migration policy.</p>	<p>A new regulation that has not been implemented at the time of work on the article.</p> <p>An analogous provision was contained in Article 90(10) of the Act on employment promotion and labour.</p>
Article 13(5) of the Act on EoF.	<p>Restriction.</p> <p>The Council of Ministers may determine, by way of a regulation, the maximum number (limits) of work permits that can be issued in a given calendar year.</p>	<p>Requiring the issuance of a legal act.</p> <p>The issue of the act is not mandatory and depends on i.e. hindering the employment of Polish citizens.</p>	<p>A new regulation that has not been implemented at the time of work on the article.</p> <p>The limits may apply to individual types of work permits, provinces, districts, professions, types of contracts under which a foreigner may be entrusted with work, or types of activity of the entity entrusting work to a foreigner.</p>

Article 13(7) of the Act on EoF.	<p>Restriction.</p> <p>The Council of Ministers may determine, by way of a regulation, the limits of entrusting work to foreigners by a Polish entity entrusting work to a foreigner in the form of a minimum percentage share of Polish citizens and foreigners of citizens of the EU, EEA countries or citizens of the United Kingdom of Great Britain and Northern Ireland (in accordance with section 4(6)(b) of the Act on EoF) or enjoying the freedom of access to the labour market on the basis of Article 3(1) of the Act on EoF, in the number of persons performing work for a given entity.</p>	<p>Requiring the issuance of a legal act. The issue of the act is not mandatory and depends on i.e. hindering the employment of Polish citizens.</p>	<p>A new regulation that has not been implemented at the time of work on the article.</p> <p>The limits may apply to individual voivodeships, districts, sectors or professions.</p>
Article 27(1) and Article 28 of the Act on EoF and Article 77(9a) of the Act on foreigners.	<p>Facilitation.</p> <p>Priority in the consideration by the voivode of applications for the issuance of a work permit for a foreigner for the benefit of a Polish entity entrusting work to a foreigner and by the consul for the issuance of a visa for the performance of work in the case when the entrepreneur is included in the list of entrepreneurs conducting business activity of significant importance to the national economy in the territory of the Republic of Poland, created by the minister responsible for the economy.</p>	<p>Requiring the issuance of an official document. The issue of the document is mandatory.</p>	<p>The document has been issued.¹⁷</p>
Article 27(1) and Article 29 of the Act on EoF and Article 77(9a) of the Act on foreigners.	<p>Facilitation.</p> <p>Priority in the consideration by the voivode of applications for the issuance of a work permit for a foreigner for the benefit of a Polish entity entrusting work to a foreigner and by the consul for the issuance of a visa</p>	<p>Requiring the issuance of a legal act. The issue of the act is not mandatory.</p>	<p>A new regulation that has not been implemented at the time of work on the article.</p>

¹⁷ Wykaz przedsiębiorców wykonujących na terytorium Rzeczypospolitej Polskiej działalność gospodarczą o istotnym znaczeniu dla gospodarki narodowej, <https://www.gov.pl/web/rozwój-technologie/wykaz-przedsiębiorców-o-istotnym-znaczeniu-dla-gospodarki-narodowej> [access: 29.09.2025].

	for the performance of work in the case when the profession to be performed by a foreigner is included in the list of professions in which there are staff shortages created by the minister responsible for labour in consultation with the minister responsible for economy and the minister responsible for internal affairs.		
Article 31(3)-(4) of the Act on EoF.	Restriction. The starost, at the justified request of the director of the district labour office, after obtaining a positive opinion of the district labour market council, may determine the list of professions for which a foreigner's work permit is refused.	Requiring the issuance of list of professions. The issue of the act is not mandatory and depends on i.e. the difficult situation on the local labour market and the unemployment rate.	A list of professions has not been implemented anywhere at the time of work on the article.
Article 65(2) of the Act on EoF.	Restriction. The Council of Ministers may determine, by way of a regulation, the maximum number (limits) of declarations on entrusting work to a foreigner that can be entered into the register of declarations in a given calendar year.	The issue of the act is not mandatory and depends on i.e. hindering the employment of Polish citizens.	A new regulation that has not been implemented at the time of work on the article. The limits may apply to provinces, districts, professions, types of contracts on the basis of which a foreigner may be entrusted with work, or types of activity of the Polish entity entrusting work to a foreigner.
Article 77(11) and Article 77(12) of the Act on foreigners.	Facilitation. <i>See Table 1.</i>	Requiring the issuance of a legal act. The issue of the act is not mandatory and depends on i.e. needs of the labour market.	The ability to activate the solution was never used.
Article 114(5) of the Act on foreigners.	Facilitation. <i>See Table 1.</i>	The issue of the act is not mandatory and depends on i.e. needs of the labour market.	The ability to activate the solution was never used.
Article 114a of the Act on foreigners.	Restriction. <i>See Table 1.</i>	The issue of the act is not mandatory and depends on i.e. needs of the labour market.	The ability to activate the solution was never used.

Article 127a of the Act on foreigners.	Restriction. <i>See Table 1.</i>	The issue of the act is not mandatory and depends on i.e. needs of the labour market.	The ability to activate the solution was never used.
Article 139b of the Act on foreigners.	Restriction. <i>See Table 1.</i>	The issue of the act is not mandatory and depends on i.e. needs of the labour market.	The ability to activate the solution was never used.

Among the listed instruments concerning the principle of complementarity in the access of foreigners to the labour market:

- 1) 8 concerned solutions limiting access to the labour market, of which none is in force, and 5 are stipulated in the Act on EoF;
- 2) 6 concerned solutions facilitating access to the labour market, of which only one is in force, two must be introduced in accordance with the Act on EoF, two resulting from the provisions in force before the enactment of the Act on EoF (from the provisions of the Act on Foreigners) and their enactment is not mandatory.

The above analysis shows that the legislator must introduce another two (in addition to preparing a list of entrepreneurs conducting business activity in the territory of the Republic of Poland that is of significant importance to the national economy) solutions to facilitate the access of foreigners to the labour market, which are executive provisions to the Act on EoF. When comparing the legal instruments used to define the framework of the principle of complementarity in the access of foreigners to the labour market in the period before and after the EoF Act, it should be noted that the legislator removed from the system the restriction on the employment of foreigners in the form of the so-called labour market test; after this removal, all restrictions are non-obligatory in terms of their activation (they do not operate without additional intervention of the competent authority); despite the removal of the so-called labour market test, the number of restrictions on establishing access to the labour market for foreigners increased *per capita* by one (from 7 to 8). The number of regulations obligatorily introduced by regulations facilitating access to the labour market for foreigners, regulated outside the Act on Foreigners, increased from two to three.

5. Conclusions

The analysis of the evolution of the principle of complementarity in the access of foreigners to the Polish labour market leads to several key conclusions.

Firstly, the new legislative framework introduced by the Act on EoF has significantly transformed the legal mechanisms used to implement the principle of complementarity. In particular, it repealed the previously fundamental restrictive instrument – the so-called labour market test – which, for many years, operated as a mandatory and systemic tool. Following its repeal, all existing restrictions on access to the labour market have acquired a facultative nature, meaning they require an active decision or action by the competent authority in order to take effect.

Secondly, paradoxically, despite the removal of a key restrictive mechanism, the total number of provisions establishing potential limitations on access to the labour market for foreigners has increased – from seven to eight. This indicates that the repeal of a mandatory instrument does not necessarily result in an overall liberalisation of the system; on the contrary, it may be accompanied by an expansion of the range of potential restrictions, albeit in a less direct or automatic form.

Thirdly, the period under analysis has also seen an increase in the number of legal provisions introducing measures that facilitate access to the labour market – from two to three. This may suggest an intention to enhance the flexibility of the system in areas where rapid responses to labour shortages are required.

The above findings indicate that the recent legislative developments do not follow a clearly liberalising or restrictive trajectory. Rather, they represent a shift in the mode of regulatory control – from rigid, automatic mechanisms to more discretionary instruments, dependent on the decisions of public authorities. In this sense, the transformation may be viewed as a *mirror reversal* of the previous model: although the form has changed, the underlying capacity to restrict access remains – now exercised through different procedural means. This transformation may result in a more flexible framework, but at the cost of reduced legal certainty and predictability.

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