

Dear Readers,

In this month's issue, we explore key HR topics, including:

- **reclassification of civil law contracts:** will the Polish Labor Inspection have the authority to convert civil law contracts into regular employment contracts? And will they contribute to employment history?
- **no fee employment lawsuits: how to defend your company against baseless claims.**

See also below for a timetable of upcoming events organised by PCS | Littler. We hope you will be able to attend.

Enjoy your reading!

**Robert Stępień
Miłosz Awedyk**



Labor Inspection to reclassify contractual work into regular employment contracts?

Author: **Anna Kencel**, trainee advocate, partner, anna.kencel@pcslegal.pl

The State Labor Inspection (PIP) is set to gain the power to convert work contracts based on the Civil Code into employment contracts through an administrative decision, bypassing the courts. However, these decisions will be appealable, and any disputes will ultimately be resolved by the courts. The necessary amendments to the PIP Act are currently in progress.

This concept closely resembles the long-debated “employee test”. The PIP would determine whether to reclassify a contract based on six or seven criteria derived from existing legislation and judicial decisions. Key factors will include the provision of work at specific times and a subordinate relationship.

On the one hand, the Chief Labor Inspector claims that the PIP will not push to reclassify all Civil Code work contracts. On the other, however, he insists that when inspectors find evidence of an employment relationship, they should still issue a decision to reclassify the contract, even if the employee objects.

These changes are still in the early legislative stages. However, we recommend reviewing your existing B2B structures and contracts for commissioning of services (pl. umowy zlecenia) to assess potential reclassification risks. As PCS | Littler, we have extensive experience advising on the proper structuring of employment relationships, particularly in the B2B sector.

No-fee employment lawsuits: how to defend your company against baseless claims

Authors: **Ilona Zacharska**, advocate, lawyer, ilona.zacharska@pcslegal.pl
Maciej Przepióra, paralegal, maciej.przepiora@pcslegal.pl

It has been nearly a year since the provisions exempting employment lawsuits from court fees, regardless of the dispute’s value, took effect.

A significant consequence of these changes has been a surge in employment lawsuits. This has overburdened the courts, leading to longer proceedings. Employees are more likely to litigate due to the perception that it costs them nothing.

Another effect of the fee abolition is a shift in employees’ attitudes toward claims. They are increasingly demanding substantial sums, reaching hundreds of thousands or even millions of zlotys. Moreover, employees are exploiting the new legislation by adding bullying or discrimination claims to dismissal appeals. Consequently, seemingly straightforward termination disputes often escalate into lengthy battles involving multiple legal aspects. This is precisely what employees aim for: to pressure employers and secure favourable financial settlements.

We advise against yielding to such unwarranted pressure. It sets dangerous precedents and can lead to further escalation of unwarranted claims. If employee claims are clearly unfounded, it is worth contesting them. This requires action not only in court but also outside, such as implementing internal procedures, conducting investigations, and gathering evidence. The effective implementation of whistleblower procedures is crucial in this context.

Otherwise, they may become another tool for abuse by current and former employees.

Contractual work to count towards employment history?

Author: **Kamil Nazimek**, trainee attorney-at-law, lawyer, kamil.nazimek@pcslegal.pl

A bill amending the Labor Code is currently under public consultation. It proposes that periods of work under contracts based on the Civil Code, including B2B contracts, be counted toward employment history.

The proposed provisions would include the following periods in the calculation of the general length of service:

- Periods of running a non-agricultural business;
- Periods of carrying out work under contracts for services or for commissioning of services (pl. umowy zlecenia); and
- other professional activities that would qualify for social insurance but where the individual was not insured.

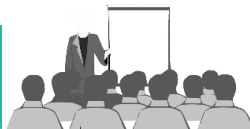
These periods would be confirmed by a certificate issued by the Social Insurance Institution (ZUS).

This means that periods of work under contracts for services or for commissioning of services previously concluded with a current employer would also be considered when calculating individual employee benefits. This would affect factors like annual leave length, severance pay, and the notice period.

According to the bill, the Labour Code changes will take effect on 1st January 2026.

Given these changes and the planned expansion of the State Labor Inspection's powers to reclassify work contracts based on the Civil Code, it is advisable to review your existing B2B contracts and contracts for commissioning of services and assess the legitimacy of their continuation. We are ready to assist you with this analysis.

Here is a timetable for the events that we are hosting in the near future.



HR Lab Gdańsk - The employer of today and tomorrow: Whistleblowers and the clash of values

We invite you to join our recurring HR Lab meetings.

Date: 10th September 2024, 11:00 a.m. - 2:00 p.m., on-site, Gdańsk.

Speakers: Bartosz Tomanek, Robert Stępień, Marcin Sanetra.

Event Partner: Pomeranian Employers (Pracodawcy Pomorza).

Registration form: [here](#).

Trust but check: Social dialogue based on trust - how to shape relations with trade unions and works councils

Date: 11th September 2024, 11:00 a.m. - 11:45 a.m., online.

Speakers: Łukasz Chruściel, Paweł Sych.

Registration form: [here](#).

HR Meetup Wrocław: Protecting Whistleblowers: Essential Knowledge Ahead of New Legislation

Date: 18th September 2024, 6:00 p.m., on-site, Wrocław.

Speaker: Karolina Kanclerz.

Organised by: HR Meetup Wrocław.

Registration form: [here](#).

Working Time 2024 Conference

Date: 25th September, 10:00 a.m. - 2:00 p.m., online.

Speakers: Łukasz Chruściel, Sandra Szybak-Bizacka, Marcin Sanetra, Michał Włodarczyk, Bartosz Wszeborowski, Kinga Polewka-Włoch, Piotr Kozłowski.

Registration form: [here](#).

HR Lab Kraków: Managing employee underperformance and AI in employment

Please join our next HR Lab meeting.

Date: 27th September 2024, 11:00 a.m. - 2:00 p.m., Kraków.

Speakers: Robert Stępień, Michał Bodziony, Kinga Ciosk, Kamil Bogusz.

Event Partner: ASPIRE.

Registration form: [here](#).

SAVE THE DATE: HR Lab Wrocław

Date: 15th October 2024, on-site, Wrocław.

Registration form: [here](#).