

PCS GOOD MORNING HR | 46/26

Dear Readers, as usual, we come to you with a selection of the most interesting HR news and topical issues of the past week.

SUPREME COURT: ACTUAL WORKING CONDITIONS TAKE PRECEDENCE OVER CONTRACT TERMS

The Supreme Court has confirmed that when determining the existence of an employment relationship, the title of a contract and its stated provisions are of secondary importance. What matters most are the conditions under which the work is actually performed day to day. If the working arrangement involves personal and continuous performance of duties, a set location, fixed hours, and strict managerial supervision, a court will reclassify it as an employment contract. This ruling was issued despite the parties having signed a formal contract based on the Civil Code, and the absence of standard full-time documentation, such as personnel files or working time records. It serves as an important reminder to employers that attempts to disguise full-time roles as contractor agreements will not hold up in court. Supreme Court ruling of September 8, 2026, I PSK 771/26.

CJEU: INFLUX OF UKRAINIAN REFUGEES MAY JUSTIFY SUSPENDING RESIDENCE APPLICATION DEADLINES, BUT DOES NOT BAR ADMINISTRATIVE INACTION COMPLAINTS

In a case involving a non-national who applied for a temporary residence permit, the Provincial Administrative Court in Gliwice referred a question for a preliminary ruling to the Court of Justice of the European Union (CJEU) regarding Polish laws suspending processing deadlines for residence cases. The main issue was whether the mass influx of refugees from Ukraine following the Russian invasion constituted force majeure, thereby justifying the temporary suspension of statutory deadlines and restrictions on the right to challenge administrative inaction. The CJEU held that while the refugee influx may be considered an extraordinary and unforeseeable circumstance, the state must prove it made every effort to mitigate its impact. Any resulting restrictions must be necessary, proportionate, and remain in effect only as long as the underlying obstacles persist. Specifically, the Court questioned the legitimacy of keeping restrictions on inaction complaints in place beyond December 31, 2022, noting that their ongoing necessity had not been established. The final assessment of whether Polish regulations comply with EU law rests with the Provincial Administrative Court in Gliwice. Judgment of the CJEU of November 12, 2026, Case C-254/25 read *here*.

CHIEF LABOR INSPECTOR: CLEANING TASKS MAY BE PERFORMED UNDER A CONTRACT OF MANDATE

Basic workplace maintenance and shipment preparation may be performed under an open-ended contract of mandate (umowa zlecenie). In a recent interpretation, the Chief Labor Inspector (GIP) stated that providing services sporadically - once or twice a month - on mutually agreed dates, without set hours, ongoing supervision, or a requirement for personal performance, can legitimately be governed by the Civil Code. Key factors included the contractor's ability to set their own schedule, reschedule tasks, or arrange for a substitute, as well as compensation tied strictly to work actually performed. The Chief Labor Inspector reiterated that the type of contract is not defined by its title, but by the reality of the working relationship. If factors defining an employment relationship are present, including subordination, working arrangement permanence, or mandatory personal performance, the legal classification of the contract may differ. Chief Labor Inspector's letter dated October 19, 2026, GIP-26-341869, GIP-GPP.5180.25.2026.4.

STATE LABOUR INSPECTION: PROPOSED REFORMS FOR DRIVERS' WORKING HOURS

Inspections carried out by the State Labour Inspection (PIP) reveal that the most common violations in the transportation sector include failure to take breaks, shortened rest periods, exceeded driving limits, and excessive night work. Between 2023 and the first half of 2026, inspectors audited over 1.6 million driver workdays, issuing 1,581 fines which yielded nearly PLN 6 million between 2023 and 2025 alone. These compliance issues stem largely from inadequate oversight and training, limited resources among small carriers, and pressure from clients. In response, the Chief Labor Inspector is calling for clearer regulations, simplified reporting procedures following the rollout of the Mobility Package, greater transparency in payroll records, and stricter penalties for severe violations.

CHIEF LABOR INSPECTOR: COMBINING B2B AND EMPLOYMENT CONTRACTS IS PERMISSIBLE

In a recent interpretation, the Chief Labor Inspector addressed whether a single business entity may simultaneously engage the same individual under both an employment contract and a B2B agreement. The Inspector concluded that this dual-engagement model is permissible, provided there is a genuine separation of duties between the two contracts. In the reviewed case, an employee responsible for managing IT system access also planned to provide B2B services involving database creation, maintenance, and development. The Chief Labor Inspector emphasized that the legality of such an arrangement depends not merely on how duties are separated on paper, but on whether the scopes of work are genuinely distinct in practice. Chief Labor Inspector's letter dated September 18, 2026, GIP-26-293985, GIP-GPP.5180.6.2026.8.

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UPCOMING EVENTS

- **On unions with unions: Compliance in trade union relations** – November 17, 11:00 a.m. – 11:45 a.m., online. Registration: *here.*
- **No, because of GDPR! Workplace bullying and other misconduct: How to respond and conduct internal investigations under the new rules** – November 18, 11:00 a.m. – 11:45 a.m., online. Registration: *here.*
- **Collective redundancy step by step – Part II. How to carry out a compliant and efficient restructuring?** – November 20, 11:00 a.m. – 11:45 a.m., online. Registration: *here.*
- **Workshop: Managing trade union relations: At the table with trade unions - how to negotiate effectively** – November 23, 11:00 a.m. – 11:45 a.m., online. Registration: *here.*
- **Conference: Workplace bullying and discrimination** – November 25, 11:00 a.m. – 2:00 p.m., online. Registration: *here.*
- **Webinar: Crossborder = Sensitive: Investigations in an international context** – November 26, 11:00 a.m. – 11:45 a.m., online. Event in English. Registration: *here.*
- **Webinar: Employee length of service – recent legal updates and new employee rights** – November 26, 11:00 a.m. – 11:45 a.m., online. Registration: *here*.

Please note that the information given above is general and should not be treated as legal advice or as a basis for making business decisions. The firm accepts no liability whatsoever for using this information without prior consultation.