

Exploring the Model of Legal Consciousness Formation Among Foreigners Working in Poland. Preliminary Insights

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Abstract

The article focuses on the formation of legal consciousness among economic migrants from third countries to Poland as an important factor that contributes to their integration in the host country. First, the concept of legal consciousness is discussed, and a migration-adjusted model of how it is formed is proposed. As special emphasis is put on legal knowledge, an overview of the legal provisions of migration employment law is presented. Finally, based on articles and reports on economic migration to Poland, we ascertain how migrants acquire legal knowledge, what the flow of information is, where interferences are and how they impact migrants' legal consciousness.

Based on articles and reports, we identify possible breakdowns in the information flow between key labour market actors (e.g. employers, public offices that manage the formal side of the employment process, and intermediaries, such as temporary employment agencies) and migrants. The complexity of regulations often leaves employers and foreign workers dependent on intermediaries. Without knowing the applicable legal provisions, much less understanding them, migrants tend to lack all types of legal knowledge. Thus, they may develop attitudes and legal consciousness based on false premises, further impacting their legal status in the host country. Even if they acquire knowledge, its quality can be questioned due to the fraud and deception that are often reported. Particularly troublesome is the limited contact between public offices and migrants, depriving them of reliable legal information.

Keywords: legal consciousness; economic migrants; labour migration into Poland

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1. Introduction

The labour migration process is internally complex. From the legal perspective, it covers numerous areas in which the foreigner is obliged to develop/manage to legally reside and work in Poland. These requirements obviously concern those migrants who do not enjoy freedom of movement. Properly navigating the legal system requires specific knowledge, which guarantees due protection of the individual's interests in terms of the legality of residence and employment. Thus, it has a positive impact on their social integration. We propose understanding² this integration as the ability to participate in social life, access public services (e.g. healthcare, social protection and insurance), and have access to various market opportunities (e.g. labour or housing) on an equal footing to the dominant population of the host society (or at least without a disadvantage that results from their migratory background), whether achieved through their own agency or social networks.

For newcomers to Poland, acquiring knowledge about employment-related immigration laws can be extremely difficult. It is shaped in several dimensions, depending on the stage of the migration. The process starts with logistical and legal barriers to accessing the Polish labour market that they experience in the country of origin and ends with enforcement and claiming workers' rights in the host country.

Foreigners' initial and growing legal knowledge results from their experience in various contexts, including educational background, training, the functioning of the legal system in the country of origin, or their involvement in social networks. Since the inception of socio-legal studies, various types of this knowledge have been considered the foundation of legal consciousness (e.g. Ehrlich 1971: 259), a concept that reflects a person's subjective approach towards the law. We argue that its formation and final form are crucial in shaping the situation of migrants, as it determines the degree of awareness of their legal status.

The main rationale for pursuing this topic is the scale and importance of economic migration to Poland, which for several years has been very high compared to a decade ago. This follows from data published by the Ministry of Family and Social Policy on the dual system of legalising the work of foreigners operating in Poland. There are either work permits available to all third-country nationals or registered declarations on entrusting work to foreigners³ available to nationals of Armenia, Belarus, Georgia, Moldova, Russia or Ukraine (Chart 1)⁴. The system of registering declarations is

² This understanding is inspired by and expands on the World Bank's notion of social inclusion (2013: 4, 8–13).

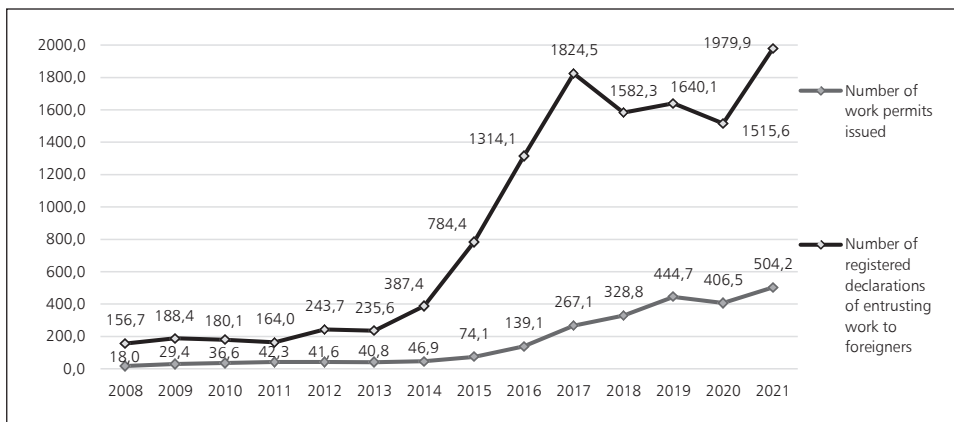
³ Between 2007 and 2017, a procedure concerning the entry of declarations of the intention to entrust work to a foreigner was in force.

⁴ The number of foreigners actually working on the basis of a permit or an entry in the register of declarations is lower than the number of documents (e.g. for some foreigners, more than one permit or declaration was issued).

relatively liberal, and the procedure is not complicated. Work permits are granted by the Voivodes at the request of the entity that intends to employ a foreigner, while the registration of declarations takes place at the Poviats Labour Offices. The decision on the work permit should, in principle, be issued within one month and the registration of the statement within seven days. The type of work permit applied for by the prospective employing entity is determined by the employment circumstances. The declaration procedure is not characterised by such differentiation.

Chart 1.

Number of work permits issued and the number of registered declarations on entrusting work to foreigners from 2008 to 2021 (in thousands)



Source: own elaboration based on data available at www.praca.psz.gov.pl

The data in Chart 1 show a steady increase in the number of permits issued from 2014 onwards. The decrease in 2020 was due to the COVID-19 pandemic and the associated extended period of validity of residence permits. The number of declarations also started to increase sharply from 2014 until 2017. In 2018, there was a decrease from the previous year – the procedure for registering declarations fundamentally changed that year. Data from 2018–2019 show relative stability. The number of registered declarations in 2020 is lower, as is the case of residence permits, due to the regulations issued in connection with COVID-19. There was a renewed increase in registered declarations in 2021.

The article focuses on the economic migration of third-country nationals⁵ due to their unique legal situation in Polish law. Therefore, we are concerned with

⁵ According to Polish law, the term “third-country nationals” means citizens from outside the European Union Member States, member states of the European Free Trade Association (EFTA), parties to the Agreement on the European Economic Area, the Swiss Confederation and the United Kingdom. This definition of third country nationals is provided in art. 2 of the Act of the 14th of July 2006 on entering the territory of the Republic of Poland, residence and departure from this territory of nationals of Member States of the European Union and their family members (i.e. Journal of Laws of 2021, item 1697).

international migration to Poland. The temporal aspect of migration will not be analysed in this article, nor will non-economic migrants who only subsequently look for a job – we are only interested in the migrants whose aim is to take up employment, regardless of length.

Our analysis is divided into three parts. First, based on a literature review, the concept of legal consciousness is discussed together with a proposed analytical model of how it is formed. Then there is a legal analysis of the most important legal areas (to be taken care of by migrants) related to the labour migration process, which should or will become part of their legal consciousness. Finally, based on the analysis of articles and research reports on the economic migration to Poland, we identify problems related to the management of these legal spheres, especially to the acquisition of adequate legal knowledge, which later contributes to the formation of certain attitudes towards the law and translates into the situation of migrants on the labour market.

In the course of the analysis, we attempted to answer the following questions:

1. What is the model of legal consciousness formation for economic migrants? What elements are specific to migrants' legal consciousness formation? What is the importance of legal knowledge?
2. What is the scope of knowledge that a foreigner who is interested in working legally in Poland should possess, taking into account the legal and organisational areas concerned?
3. How do labour immigrants acquire legal knowledge? How does this affect their legal consciousness and, consequently, their situation in the labour market?

2. Theoretical background and analytical framework

To reflect on immigrants' legal knowledge, how they acquire it, and why it is important for their livelihood, we refer to the concept of legal consciousness (LC) and its formation, adjusted for migration-specific characteristics.

2.1. The concept of legal consciousness

LC research has a long tradition in both the Polish (e.g. Borucka-Arctowa 1980; Gryniuk 1979) and international (e.g. Halliday 2019; Ewick, Silbey 1998: 22) subject literature. A broad definition of this concept was proposed by Horák, Lacko and Klocek (2021) based on a systematic review of the subject literature:

Legal consciousness is a complex of law-related knowledge, skills, attitudes, beliefs, and values of an individual, whereby the mutual relationship between the individual and law is being created, deepened, and developed within the context of specific society and legal

system providing such system with the necessary authority and legitimacy for the regulation of human behavior (sic) (Horák, Lacko, Klocek 2021: 15)

Their ambition was to synthesise the main approaches to LC. It is not an easy task considering that not only is there no unanimity regarding its meaning within the given approach, but also that the approaches themselves can be categorised in various ways (see: Hertogh 2004; Chua, Engel 2019). Their definition, like many others, lists the elements that LC consists of. The consensus is that there are several fixed components that should occur sequentially to fully develop LC (e.g. Gryniuk 2002: 30). Table 1 shows an expanded set, grouped into two dimensions, for which the demarcation line is whether their substance is restricted to applicable law, or exceeds it in a critical or constructive way:

Table 1.

Synthesising the approach to legal consciousness – dimensions, components and methodological approaches

Dimensions	LC components	Methodological approaches
<i>de lege lata</i> (rooted in applicable laws)	LC1 – general legal knowledge	Studied more often with quantitative and mixed methods
	LC2 – legal awareness	
	LC3 – <i>ad hoc</i> legal knowledge	
<i>de lege ferenda</i> (reflecting on applicable laws and proposing change)	LC4 – opinion about law	Studied more often with qualitative methods
	LC5 – general trust in law	
	LC6 ⁶ – legal identity	N/A

Source: own elaboration based on Horák, Lacko and Klocek's approach (2021: 11–15)

The first dimension, *de lege lata*, refers to what is called legal knowledge, which can be divided into three components: general legal knowledge, legal awareness and *ad hoc* legal knowledge. General legal knowledge (LC1) is the most basic information about the legal system and institutions, along with the ability to find the necessary information about them. Legal awareness (LC2) is a skill-related component that reflects the competency to use the knowledge and achieve the goal. It requires being able to properly navigate the institutional system. *Ad hoc* legal knowledge (LC3) refers to acquiring or possessing more detailed knowledge that is limited to

⁶ The sixth and most abstract component was not included in the results of the 2021 paper, but it appeared more often and was more on a par with other components in an earlier work of Horák and Lacko (2019). They claim that this component has appeared in only a few articles (Horák, Lacko, Klocek 2021: 15).

a specific branch of law (e.g. labour law)⁷. The second dimension, *de lege ferenda*, consists of an opinion about the law (LC4), which refers to being able to critically evaluate a specific piece of law in terms of its rationality; trust in law (LC5) is more abstract than the previous components and refers to the trust a person has in the legal system in a given society/country⁸; legal identity (LC6) refers to the axiological idea (which involves a person's personal beliefs and values) of what the law and legal system should be⁹.

For this article, the most important components are those connected with the *de lege lata* dimension. Immigrants, more so than locals, are subjugated to the law, as disobedience or a simple misunderstanding of formal requirements and procedures may threaten their existence in a host country and result in expulsion and being put on a blacklist for future migration. It is entirely possible for immigrants to believe that they have valid legal knowledge, which they evaluate and develop an attitude towards, perhaps even suggesting legal changes. However, they unwittingly possess erroneous information (Gryniuk 2002: 29). The severity of the consequences that arise from immigrants (especially labour migrants) infringing the law also means that we reject approaches that include norms derived from normative orders other than positive law, e.g. *a sense of the law* (Gryniuk 2002: 27; Cywiński 2014). Inaccurate legal knowledge will lead to inaccurate legal consciousness, which in turn may take the form of "with the law" or "against the law" (Ewick, Silbey 1998), or result in some form of unintentional semi-legality (Kubal 2013). In any case, legal knowledge will impact migrants' agency and potential to mobilise the law in their favour (Chua, Engel: 2019).

2.2. The process of forming legal consciousness

A model of legal consciousness formation (see Scheme 1) was proposed by Borucka-Arctowa (1976)¹⁰. It assumes that the process always starts with a set of norms of

⁷ In the Polish subject literature, there is another well-known division of information types related to legal knowledge: (1) basic information (which corresponds to LC1), (2) information related to the social role (which for labour immigrants would consist of labour law and immigration-related law), (3) information needed to make *ad hoc* decisions (which is knowledge that is acquired or recalled in a specific situation of need; for immigrants this could be, e.g. social security law, international law, or any other branch of law that is not considered basic or role-relevant) (Studnicki 1962: 580–582). Therefore, information types 2 and 3 are mostly encompassed by LC3.

⁸ Polish conceptualisations of LC usually do not specify the type of attitude, so trust can be just one of them (Pieniążek, Stefaniuk 2014: 167–168, 189–205).

⁹ Researchers in Poland debated whether proposals regarding changes in the law should be included in the LC concept. Some believe that the ability to advocate for a change is qualitatively different from evaluating something or developing an attitude; others claim that since the proposals are connected only with negative opinions about a specific issue, and thus are not necessary in other cases, they should not be included (Gryniuk 2002: 30).

¹⁰ Borucka-Arctowa's original model was developed only for the individual/country level, and did not include the context of internationality that is crucial in migration studies.

positive law (applicable in a given country at a given time). They are viewed through the lens of a complex set of “underlying” (basic, fundamental) factors that impact how and with what effect these norms are cognitively processed. These factors, which are treated as independent variables to the dependent variable of LC, include social structure variables (e.g. education, profession, legal status), socio-demographic variables (e.g. age), preferred values (e.g. moral, customary)¹¹ and previous experience with the law and legal institutions. There are also “situational” variables (e.g. treatment of employees in a given workplace), which we propose framing as “contextual variables” (i.e. external elements that impact the process, including the direct experiences of the migrant, although they are mostly out of his or her control), a less entropic term. After the norms of the applicable law are cognitively processed by people according to their abilities, the components of legal consciousness are developed in sequence: legal knowledge (a *sine qua non* condition), evaluation of the law, attitudes towards the law, and proposals of change (which may be formulated based on an evaluation only; a fully-fledged attitude is not necessary). Borucka-Arctowa emphasises that legal consciousness depends on the branch of law; thus, its development differs between branches.

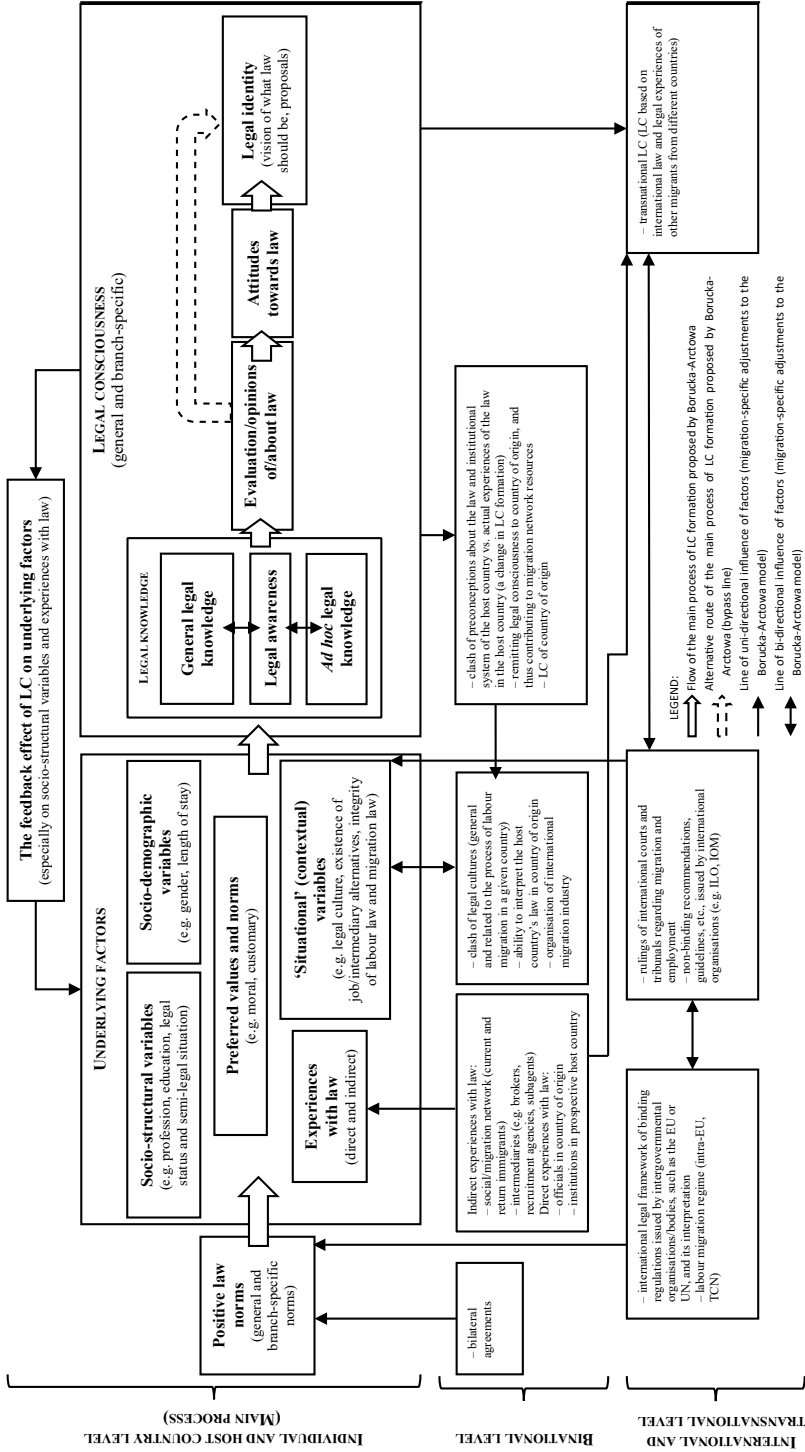
Embedding the model of labour migrants’ LC formation in migration studies, we can specify and expand Borucka-Arctowa’s model. To this end, we conducted a traditional literature review with integrative elements, since our goal was to supplement the existing model with migration-specific elements. The main part of the review covered journals from 2010 onwards; older texts and articles published in journals of profiles other than migration studies or socio-legal studies were included based on references and a search in Google Scholar (especially in terms of reports).

The search consisted of two phases. At the beginning of the first stage, the inclusion criteria were defined regarding the main concept and research group; thus, the concept of LC and its components and the fact that the sample or topic had to consider migrants were included. We then identified the main actors (intermediaries, employers, officials) and the important topic of the influence of migrants’ social networks, both of which then became inclusion criteria for the second phrase. In the second phase, the publications that considered these criteria were searched. Other specific criteria that had to be met in the second phase included a focus on migrants (especially in the context of economic migration) and the mention of legal issues. English and Polish articles, books and reports that focused on economic migrants in Poland were also searched in this phase. In this chapter, we refer to publications that consider the relevant experiences of migrants and other actors outside Poland. The articles and reports regarding economic migration to Poland are presented in

¹¹ The author states that these values may be enhancing, supplementary or competitive towards positive law (Borucka-Arctowa 1979: 12). However, later it is pointed out that if an evaluation of the law, and the attitude towards it, are based on other normative system, which only coincidentally converge with positive law, than we cannot speak of them as part of legal consciousness (Borucka-Arctowa 1979: 18).

Scheme 1.

Migration-adjusted model of legal consciousness formation



Source: own elaboration based on Borucka-Arcztowa's model

Chapter 4 to verify whether the supplemented model applies to Poland. An expanded model of LC formation is presented in Scheme 1.

Starting with the individual/host country level (see Scheme: 1) and underlying factors, one of the most important variables which positions migrants in the social structure in the host country is their legal status, whether considered globally or through the multifacetedness of semi-legality. It impacts their legal adaptation strategies, including general attitudes towards the law in the host country, how they approach institutions and officials, claim-making decisions, and, as such, their agency and how they use and evaluate their legal knowledge. The complexity of migrants' legal position in the host society directs their focus to specific branches of law. For example, undocumented migrants need to know what they can and cannot say without risking deportation, provided that they are aware of their illegal/semi-legal situation; hence, they can often have quite extensive legal knowledge (even though they remain only partially legal because of a lack of knowledge about legalisation options) (Kubal 2013; Gleeson 2010; Abrego 2011).

Another important variable is the length of stay, which allows foreigners to have experience of the law and gather knowledge. Moreover, time also positively influences their exposure to the host country's legal culture, which can be absorbed by imitation (Kubal 2015). Connected with these variables is the fact that the developed LC itself becomes a variable that, conversely (as a feedback effect), may change a migrant's legal status over time. If LC was based on incomplete or inaccurate legal knowledge (e.g. by being misled by other migrants or an employment agency, or simply being unable to access and understand legal provisions), immigrants may lack knowledge and thus neglect their obligations or formal requirements, leading to illegality or semi-legality (Kubal 2013). Based on the review, preferred values and norms do not seem to be impacted by the specifics of migration, although one could argue that, hypothetically, some religious morals and values may impact the way migrants evaluate the law.

For migrants, LC formation is not limited to the context of the host country. In the global era, they live in a transnational sphere that crosses borders. At the binational level (i.e. the narrow sphere of the interplay between the host and origin countries), if they maintain a strong connection with their country of origin, immigrants are still influenced by the LC related to that country's law. Meanwhile, in the host country, they may experience a clash of legal cultures and a clash of the preconceptions they had about the law in the receiving society. However, the scope of the clash is dependent on how divergent both legal cultures are, e.g. if they are similar, the clash may be negligible and go unnoticed. Eventually, a new LC is formed as migrants adapt to the host country, and as Kubal (2015) found, it can be transmitted as social remittance to the country of origin, enriching network capital.

The binational level may also heavily contribute to and impact the contextual factors at the individual/host country level. Besides the possibility of legal cultures

clashing, this is also where intermediaries operate, as they connect migrants with employers in the host country – sometimes directly and sometimes by cooperating with their counterparts in the country of origin. The development of the migration industry between both countries can significantly influence and shape how economic migration is managed, how it is experienced by migrants, and thus how they experience legal procedures connected with it. What is more, the extent to which migrants can familiarise themselves with all the legal procedures, rights and laws connected with work in host countries is also decided at this level. However, it greatly depends on whether they have access to relevant and understandable information (e.g. provided in a language they know), such as online or at the relevant offices.

While migrants' individual experiences with migration law occur at the host country level, they are influenced by what happens at the binational level. From the outset, migrants experience legal procedures via officials and institutions, in both the origin and host countries, which are responsible for processing the necessary documentation. Their experiences with the law may also be indirect, when they learn about it from members of their social networks, or when they infer legal provisions based on their experience with commercial intermediaries. The last element worth mentioning at the binational level is the agreements between the host and the origin country, which may shape how migration flows are managed, thus impacting the norms of positive law.

Regarding the international and transnational level, Schwenken (2013) goes even further than Kubal, concluding in her research that undocumented migrants, through the transnational exchange of information, have managed to develop transnational LC, which is based on the experiences passed on by foreigners residing in other countries (e.g. regarding rights claiming). The knowledge they gather boosts their own agency. Many such experiences and much of the information they have can be found in the form of court rulings and recommendations issued by intergovernmental organisations, thus creating a unique legal framework that migrants can refer to. As such, it contributes to the contextual factors at the host country level. Moreover, these rulings and recommendations reinforce EU and international *acquis*, later impacting the positive law of the host country, which is a starting point for LC formation.

As LC formation can be treated as communicative action, it should be mentioned that migrants acquire legal knowledge directly from legal acts and/or indirectly, i.e. someone else's expertise – the gatekeepers. We understand gatekeeping as having control over access to information, exerting power and maintaining the *status quo*. Gatekeepers may also act as facilitators (streamlining the communication) and links (connecting the group with the external world). Therefore, although the connotation is not always negative, it always refers to people who have more knowledge and/or experience and agency (Barzilai-Nahon 2009: 16–17).

Facilitators can be exemplified by intercultural mediators, who provide migrants with legal advice of various kinds, boosting their independence in the host society

(see: Augustí-Panareda 2006). Social/migration networks (which encompass, e.g. families, friends, or return and current migrants) also play a positive role in helping the newcomers adapt, giving them information about, e.g. jobs or the whole process of migration to a chosen destination (Dolfin, Genicot, 2010). Grzymała-Kazłowska (2005) showed that if members of (nationality-based) networks become threatened by an influx of new migrants, ties loosen, reducing to tightening familial circles. Informational help crumbles, replaced by malicious acts against compatriots, including false information and severe gatekeeping.

Gatekeepers, who received prominence in recent years, include commercial intermediaries (e.g. brokers, recruitment agencies) who connect potential migrant workers, employers, officials, and their counterparts in other countries. They are often associated with fraudulent activities (e.g. forging papers) and spreading misleading information related to the employment process, possibly leading to a semi-legal status in the host country, as migrants cannot verify what they are being told. Brokerage thrives where logistical costs of migration and necessary knowledge are too great for workers to bear; hence agencies are cheaper and often the only choice (see: Williams *et al.* 2020; López-Sanders 2014; Kern, Müller-Böker 2015; Weeraratne 2021; Wee *et al.* 2019).

3. The areas of Polish labour migration law that need to be present in an economic migrant's LC

Migration is a process that is known to take place in many stages. It begins when the migrant is still in the country of origin and is organising his departure, and ends when he returns to the country of origin or loses the migrant status by becoming a citizen of the host country. The labour migration process involves the formation of legal knowledge in many different dimensions.

The legality of employment in Poland is linked to legal residence. Economic migrants must have not only a legal employment status, but also a legal residence status. This demonstrates that the first issue related to the LC of migrants is that they need to know that there are different categories of economic migrants, differentiated by status. After acquiring such knowledge, the migrant develops an awareness regarding the particular group they belong to.

3.1. Prior legalisation of residence and employment

Legalising the possibility to stay and work in Poland can take place before arriving in the country. Then, with regard to residence and employment, the following groups of economic migrants in Poland can be distinguished:

- 1) those who do not have to legalise their entry to Poland and can benefit from simplifications of employment;
- 2) those who need to legalise their entry to Poland and may benefit from simplifications in employment;
- 3) those who must legalise their entry to Poland and cannot benefit from simplifications concerning employment.

Legalising their entry is connected with legalising their stay, at least initially. The relevant regulation is found in Regulation (EU) 2018/1806 of the European Parliament and of the Council of the 14th of November 2018, which lists third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. It also indicates who must have biometric passports to benefit from visa-free travel (e.g. citizens of Ukraine). The nationals of third countries listed in Annex II of Regulation 2018/1806 are exempt from the requirement to have a visa when crossing the external borders of the Member States for stays of no more than 90 days in any 180-day period.

If foreigners find themselves in the group of state nationals who need a visa to enter Poland, they must be aware of the competence of the authority that issues the visa. According to Article 6 of the Community Code on Visas, a visa application shall be examined by the consulate of the competent Member State in whose jurisdiction the applicant legally resides. The consulate shall examine an application lodged by a third-country national lawfully present but not residing in its jurisdiction, if the applicant has provided justification for lodging the application at that consulate. Polish consulates often serve citizens of various countries – not only the country where they are established.

For example, the Consular District of the Consular Section of the Polish Embassy in New Delhi includes 20 states in India and the union territories of Jammu and Kashmir and Ladakh, Afghanistan, Bangladesh, Bhutan, the Maldives, Nepal and Sri Lanka. For this reason, if, for example, a Nepalese citizen intends to work in Poland, they must go to the Polish consulate in India to obtain the relevant visa. As research shows, it involves not only organisational difficulties but also the need to overcome obstacles related to the abuses that the Nepalese face during the visa application process (Florczak, Rannveig- Mendoza, Nepal 2020: 48, 115).

Using the example above, before submitting a visa application in New Delhi, a Nepalese citizen must have a title which legalises his employment – an employment permit. Pursuant to Article 88a(1) of the Act on employment promotion and labour market institutions (hereinafter: AEPLMI), such a permit may be applied for by an entity that entrusts employment to a foreigner. The relevant application is submitted to the Voivodeship Office competent for the seat or place of residence of the entity that is entrusting work to a foreigner if it is directly related to work for that foreigner. The need to have a work permit is related to proving the purpose of

their stay when applying for a visa. If the purpose for applying for a visa is work, it is necessary to present a work permit during the application process (Article 64 of the Act on foreigners).

When classifying the legal status based on the described example, the Nepalese citizen will be classified in the third group mentioned above – migrants who must legalise their entry to Poland and cannot benefit from simplifications concerning employment. Simplifying access to the labour market is related to Poviats Labour Offices registering the declaration on entrusting work to a foreigner. Such declarations are the basis for work for citizens of six former Soviet republics, some of whom can benefit from the simplified entry procedure related to a visa-free stay¹².

Table 2.

Titles legalising entry into Poland for nationals of countries that may benefit from simplifications in employment

	visa exemption	the need for a biometric passport
Armenia	-	n/a
Belarus ¹³	-	n/a
Georgia	+	+
Moldova	+	+
Russia	-	n/a
Ukraine	+	+

Source: own elaboration based on Regulation 2018/1806 and Ordinance of the Minister of Family, Labour and Social Policy of the 8th of December 2017 on countries whose nationals are subject to certain provisions concerning the seasonal work permit and provisions concerning the statement on entrusting work to a foreigner.

A registered declaration on entrusting work to a foreigner can be the basis for obtaining a visa to work in Poland. Since 29.01.2022, nationals of countries that can benefit from registering declarations have been able to legalise work for 24 months without a settlement period. Previously, it was only possible for a period of 6 months within 12 consecutive months. This new procedure provides a deformalised path for legalising employment, and it will now probably be used even more eagerly. However, even more far-reaching simplifications resulting from the provisions adopted due to the war in Ukraine will certainly minimise the use of declarations. In 2021, 82.6% of all registered declarations were for Ukrainian citizens. Since the new legislation

¹² According to the Ordinance of the Minister of Family, Labour and Social Policy of the 8th of December 2017 on countries whose nationals are subject to certain provisions concerning seasonal work permits and provisions concerning the declaration on entrusting work to a foreigner

¹³ From the 15th of June 2021, based on the Ordinance of the Minister of Foreign Affairs of the 28th of May 2021 on countries in which foreigners may apply for a visa by the Minister in charge of foreign affairs, citizens of Belarus are entitled to apply for a visa to the Minister in charge of foreign affairs.

enacted due to the war introduces a different procedure for these people, this structure will certainly undergo further changes.

The title that legalises a foreigner's stay while working based on the abovementioned declaration may be a visa or a residence permit. However, while the declaration can be registered for as long as 24 months, the validity of the visa cannot exceed one year, as stipulated in Article 24(2)(a) of the Community Code on Visas. Given the need to return to the country of origin to obtain a visa, it does not seem likely that many foreigners will choose to work based on declarations while having to legalise their stay with successive visas. They would more likely use a permit to stay as the title to legalise their stay, which is obtained during their stay in Poland.

3.2. Residence and work in Poland – subsequent legalisation and exercising of rights

Subsequent legalisation of employment and residence in Poland may be a consequence of coming to Poland without the intention to work (e.g. under the visa-free regime) or the expiry of titles legalising their stay and acquiring new ones. Thus, foreigners must develop legal knowledge as it is crucial for them to correctly identify their legal status.

The data confirms that the overwhelming majority of foreigners (78% in 2018, UdsC 2018) who apply for a temporary residence permit during their stay in Poland indicate work as the basis for their stay, which results in them obtaining a single permit for temporary residence and work. However, the procedure for obtaining this permit is lengthy due to the inefficiency of the system, as pointed out in 2019 by the Supreme Audit Office (NIK 2019). Importantly, the outcome of the 2019 audit indicated that no Voivodeship Office (i.e. the authority competent to process applications for residence permits) had formally prepared an information policy, including separate rules for communicating with foreign clients (NIK 2019: 16). The lack of such tools dramatically reduces the possibility to shape migrants' legal knowledge because they do not have sources from which they can draw reliable knowledge.

The need to know how certain legal mechanisms work does not end with successfully applying for a unified permit for temporary residence and work. After receiving the decision, migrant workers have certain legal obligations of which they must be aware. For example, they are obliged to notify in writing the Voivode that granted the permit, within 15 working days, about the loss of employment with any of the entities commissioning work listed in the permit (Article 121 of the AEPLMI) or the need to change the permit as a result of a change in the circumstances that constituted the basis for its issuance (Article 120 of the AEPLMI).

Across the employment process, the migrant should develop LC regarding issues related to employment law to protect his interests. It is crucial to be at least aware of the differences between labour law employment (which guarantees extensive

protection for employees) and civil law employment (which assumes formal equality between the parties to a relationship with minimal protection of the worker). Data from the Ministry of the Family and Social Policy (as of the 1st of July 2021) indicates that the majority (51.8%) of work permits for foreigners were combined with a form of employment under a service contract (MRiPS 2021). It raises serious doubts about whether they were really non-subordinated civil law employment contracts and not disguised labour law employment relationships. Concluding a civil law contract when it should be a labour law contract is contrary to the Polish Labour Code (Articles 22 § 1¹ and 1²), constituting an offence against the rights of the employee (Article 281 point 1 of the Labour Code).

Two categories are usually distinguished in the context of exercising rights: having a right and claiming it. The latter is only feasible if one knows the mechanisms for enforcing the law. The applicable legal regulations protect migrants' interests concerning the claiming of outstanding remuneration on a wide scale, even if they perform work without a valid residence permit in Poland. The relevant regulation is contained in the Act on the consequences of illegally hiring foreigners in Poland. A foreigner who has a job but not a valid document authorising their stay is entitled to claim outstanding remuneration and related benefits under the rules specified therein. However, it does not change the fact that by remaining in an illegal employment relationship, foreigners are deprived of a number of rights to which employed people are entitled on an ongoing basis, as will be indicated later in the article.

3.3. COVID-19 pandemic and the war in Ukraine – legal and organisational chaos as an obstacle to the formation of legal consciousness among migrants

The LC of migrants requires knowledge of the applicable norms. It is, therefore, subject to change as the regulations change. The SARS-CoV-2 pandemic affected almost all spheres of society almost immediately, including processes related to labour migration. As of the 31st of March 2020, in the Act of the 2nd of March, 2020 on special solutions related to preventing, counteracting and combating COVID-19, other infectious diseases and the crises caused by them (hereinafter: the COVID Act), special provisions concerning the legalisation of employment and stay of foreigners during the pandemic started to apply, which were gradually specified further and extended in amendments. Migrant workers, therefore, faced another challenge – they had to identify their legal status based on the new provisions in extraordinary circumstances, and the construction of the adopted norms did not make it easier, causing numerous interpretation problems. The misunderstandings resulted from the standardisation of various legal institutions in a similar but nevertheless different manner, which caused a lack of understanding of the normative consequences of the application of individual norms. Examples include art. 15z of the COVID Act, which

extends the deadline for submitting an application for the legalisation of stay until the end of the 30th day following the cancellation of the last state (epidemic threat or epidemic), and art. 15z¹, which extends the legality of stay also until the end of the 30th day following the cancellation of the last state (epidemic threat or epidemic). Despite their similar nature, these norms regulate completely different legal institutions and cover different circumstances.

The war in Ukraine has also resulted in the introduction of revolutionary changes regarding the legalisation of foreigners' stay and work in Poland. One must consider the provisions to legally normalise the situation of people fleeing from Ukraine both in Polish law (the Act of the 12th of March 2022, on assistance to citizens of Ukraine in connection with the armed conflict in that country – hereinafter: Special Act) and EU law (Council Implementing Decision (EU) 2022/382, which has the effect of introducing temporary protection, and Council Directive 2001/55/EC). The provisions of these legal acts refer specifically to migrants with Ukrainian citizenship, but only some of the norms cover people without Ukrainian citizenship. Considering the structure of migration to Poland, these regulations have an impact on the largest group of newcomers. The exception is Article 22 of the Special Act, which introduces a special procedure for the employment of all Ukrainian citizens legally residing in Poland, not only those affected by the war. The Special Act also regulates the principles of extending the validity of residence titles in different ways, depending on the basis that legalises their stay.

These examples show that emergency legislation can be a source of change in the realities in which migrants operate. The implementation of new rules related to legalising residence and work constitutes an additional obstacle to determining the legal situation of a migrant, as it is changed by the changing law.

4. Information breakdown – sources of information and their consequences for migrants' LC in Poland

Existing research on economic migrants in Poland provides us with information on what kind of legal problems and knowledge needs they experience. However, two important caveats must be made. First, the literature cited in this chapter includes research of various designs – from literature reviews to a complex nationwide research project. In most cases (especially when migrants are the main research group), the data is not statistically representative, which is common in migration studies. As such, any generalisations, conclusions and interpretations refer only to the scope of the literature used. That being said, our goal is to provide insights regarding the use of the model in Poland. Consequently, we concentrate on the mechanisms and exemplifications, supplementing the factors presented in Scheme 1 with content. There-

of migrants, officials, institutional representatives, or experts, they corroborate each other's findings. For a brief overview of the research, see Table 3.

The second caveat refers to how the analysis is presented in this chapter, i.e. it focuses on four crucial labour market actors – immigrants, employers, intermediaries and officials – and how they interact. Though migrants are the main subjects of the analysis, other actors cannot be omitted because, as we highlighted earlier, LC formation is communicative action, and this communication occurs between these actors. Employers, intermediaries and officials, as well as their knowledge and interests, must be treated as creating the context, framework or background that directly influences migrants' LC formation; they constitute an important source of information.

Table 3.

Overview of research used in the analysis

Authors	Sample/Type of research
Antkowiak L.; Nowicka M.; Kosowicz A., Nowicka M. (2020: 8, 17)	The sample is not clearly stated. The report contents "are based on scripts from workshops and training sessions organised as part of the project and our own research". Original research was carried out with immigrants in the Polish city of Kalisz. The report also refers to public statistics, analysis of legal acts and other research.
Białas J., Domańska B. (2012: 140)	Contents of the chapter "are based on experiences of the lawyer and integration counsellor hired by the Helsinki Foundation for Human Rights" and "observations and reflections of counsellors on the difficulties affecting the integration process".
Brzozowska A. <i>et al.</i> (2021: 9)	The report is based on a literature review, a public statistics overview and 15 "semi-structured interviews with posting employers and representatives of public authorities and social partners".
Galanciak S., Huriy B. (2020: 161)	The article is based on a content analysis of posts of Ukrainian migrants in Poland posted in 5 threads on Facebook (including topics related to legal, work, social and economic issues); 5 semi-structured, in-depth expert interviews were conducted with long-term Ukrainian migrants who professionally support Ukrainians working in Poland.
Górny A. <i>et al.</i> (2018: 31–41)	The research consists of: (1) A nationwide CATI survey – a random sample of 1614 enterprises; (2) a nationwide CAPI survey – a random sample of 3598 people who register declarations and 1349 immigrant workers hired by them; (3) 250 semi-structured IDIs (purposive sampling) with: 39 employment agencies representatives, 58 direct employers, 4 institutions/organisations with relevant knowledge about immigrants' employment, 59 immigrant workers (including 50 from Ukraine), Poviát Labour Office and The National Labour Inspectorate representatives (number of interviews not specified); (4) 3 FGIs with immigrant workers; (5) a CAWI survey – 322 out of the 340 Poviát Labour Office completed the whole survey; (6) analysis of public statistics.

Table 3 cont.

Authors	Sample/Type of research
Keryk M. (2017: 107–108)	The contents of the chapter are based on research carried out with Ukrainian migrant workers hired by OTTO Work Force Polska (a temporary employment agency), as well as Polish employers. The research was carried out by OTTO Work Force Polska and The University of Business in Wrocław. Research is not otherwise specified in the chapter.
Keryk M. (2018: 2)	The research encompassed “secondary data analysis; press analysis; statistical data collection; sending requests for information to public institutions; monitoring social media for job advertisements for workers and immigrants’ complaints about working conditions; consultations with experts; conducting structured interviews with stakeholders and Ukrainian immigrants. In total, 14 interviews and 1 structured discussion were conducted in Warsaw.”
Kindler M. (2021: 516)	The analysis is based on 20 “semi-structured in-depth interviews with Ukrainian labour migrants working in Warsaw and its vicinities”. It is a selection of interviews from a pool of 39 interviews, for which half were conducted via snowball sampling, and the rest were based on purposive sampling. Two selection criteria are worth mentioning: “a relatively stable legal status” and <i>white-collar</i> jobs.
Kindler M., Wójcikowska-Baniak K. (2019: 99)	The analysis is based on “39 in-depth semi-structured interviews with Ukrainian labour migrants”. The authors recruited 16 interviewees via snowball sampling and 23 via purposive sampling. Twenty-one people performed simple or <i>blue-collar</i> jobs, and 18 had <i>white-collar</i> jobs.
Konieczna-Sałamatin J. (2009: 6–7)	The research consisted of 4 FGIs (group sizes: 4, 7, 9 and 7 interviewees) conducted with Ukrainian migrant workers, most of whom performed low-skilled jobs.
Kościeszka K., Patzer H. (2012: 108–109)	The contents of the chapter are based on 21 individual and 3 group interviews with immigrants from outside the EU (“12 Nepalese, 2 Indians, 2 Belarussians, Macedonian, Chinese, 3 Vietnamese, 2 Americans, 1 South African and 3 Filipinos”). They mostly perform low-skilled jobs. The interviewees lived in major cities: Warsaw, Lodz, Tricity and Białystok.
Łotocki Ł. (2009: 4–5)	The report is based on 20 IDs with experts and practitioners in the area of migration in Poland. This group includes academics and representatives of public offices and organisations who deal with migration issues.
Pawlak M., Lashchuk I. (2020: 16, 21)	The report is based on a legal analysis, a literature review and original research, which focuses on two labour market “access points”: an employment agency (10 interviews with Ukrainian migrants – 7 working in production and industry, 3 for the agency) and a private higher education institution (10 interviews in total – 8 with students from Ukraine, 1 from Belarus, and 1 with an administration worker).

Segeš Frelak J., Bieniecki M. (2012)	Literature review
Siciarek M. (2020: 5)	Literature review
Szulecka M., Klaus W. (2021: 94)	The basis for the analysis was an exhaustive sample of court files for 243 cases (out of 287 total – not all files were available) in which article 264a of the Polish Criminal Code (“the offence assuming for-profit facilitation of unauthorised stay”) was the grounds for conviction.
Zespół do Spraw Migracji. (2020)	Literature and statistics overview
Żadkowska M. (2017: 12–13)	The research consists of: (1) A CATI survey – respondent-driven sampling of 1006 Ukrainian migrants; (2) 20 IDIs – purposive sampling of Ukrainian migrants; (3) a CAPI survey – a sample of 2002 employers (the sample is described as representative, considering various criteria, but the sampling method is not clearly stated); (4) a CATI survey – a sample of 400 inhabitants of the Pomeranian Voivodeship (sampling method not specified); (5) 22 IDIs and one group interview – purposive sampling of representatives of institutions and organisations that deal with immigrant issues, as well as employment agencies. All research components focused on Pomeranian Voivodeship.

Source: own elaboration

One study, which focuses on Ukrainian labour migrants, points out that newcomers used assistance connected with dealing with bureaucracy, finding accommodation, finding jobs and language advice. An important caveat is that the need for assistance decreases with the length of stay (also with age, which most likely implies longer migratory experience) (Żadkowska 2017: 63–64; Konieczna-Sałamatin 2009: 12). What is more, they mostly said they need further assistance in areas such as jobs, healthcare, language, accommodation, and bureaucratic processes, especially related to legalising¹⁴ or prolonging their stay (Żadkowska 2017: 77–78).

Other research indicates that only migrants who intend to stay in Poland for at least a year asked for legal and integrational assistance, mostly with accommodation, labour issues, family matters and welfare provisions (Białaś, Domańska 2012: 140–141). Galanciak and Huriy, in their new media analysis, point out that Ukrainian migrants in Poland use social media to find information regarding documents and legal provisions, accommodation, job hunting, services, as well as leisure and entertainment (2020: 162). Keryk refers to survey results that showed that for 35% of respondents (Ukrainian migrants), the biggest problem is a lack of legal knowledge (for 50%, it is the language barrier; the two problems are closely linked) (2017: 108). The research referred to by Nowicka also highlights that the most important

¹⁴ For more on specific issues see Antkowiak 2020: 160–161.

integrational barriers encountered by migrants include the complexity of legal procedures, job instability and the migrants' low level of legal knowledge, which leaves them prone to abuse by employers and commercial intermediaries (2020: 18). These examples reflect the general categories of information needs reported by immigrants and the actors working with them, i.e. employers, recruitment agencies, NGOs and officials. Most issues are interconnected; hence it is difficult to convincingly separate them. Therefore, it will be more effective to start with the beginning of the process – a migrant looking for a job.

4.1. Job hunting and provision – the role of commercial and informal intermediaries

Migrants search for a job through various means. However, an important factor that limits the choices is the employment regime, since EU internal migrants, migrants benefitting from simplified procedures, and other third-country nationals (TCNs) can access the Polish labour market in different ways. Focusing on economic migrants from outside the EU (and EEA), while the vast majority are employed via a simplified procedure, there are TCNs from Asia (e.g. Vietnamese, Nepalese, Indonesians, Filipinos) who do not benefit from any legal conveniences. The experience of these groups is different because immigrants from the Far East are much more reliant on recruitment agencies as their social networks are limited, and looking for a job directly is virtually impossible due to, among other things, the few possibilities to learn Polish. Even if language courses were available, they might not be popular as potential migrants are often told that knowing English is sufficient in Poland.

The problem is compounded by the fact that, as they do not benefit from any preferential provisions, the bureaucratic procedure of acquiring a visa and work permit is more difficult. Thus, agencies that work with Polish counterparts are the most reliable source of job information and often the only option to fulfil formal requirements. It is especially true for Asian migrants, as they are often unable to contact Polish offices (Kościeszka, Patzer, 2012: 111–112, 115). Other TCNs (e.g. Ukrainians) also use the assistance of recruitment agencies, but the ties between those who operate in Poland and Ukraine are closer. Polish agencies have branches in Ukraine, and human, social and migratory capital allows Ukrainians to look for a job either by contacting the employer directly or through a Polish agency. Thus, we may assume that the difference in the degree of migrants' dependence on intermediaries is a result of bilateral or supranational regulations. It impacts the positive law of the host country, underpinning LC formation.

Many¹⁵ migrants use recruitment agencies and other professional intermediaries to provide them with information about job offers. However, their reliability is

¹⁵ According to a report on employment agencies' activities, a little over 39% (84,248) of all employees hired by agencies were immigrants (MRIPS 2022: 20).

often questioned. They are criticised for not providing real information on working conditions (e.g. working hours, payment, taxation, retirement and pension systems, worker's rights, insurance and healthcare), procedures, working and living in a given country (e.g. currency, language, weather), or the type of contract (Kościeszka, Patzer, 2012: 111–112, 116–117, 119; Białas, Domańska 2012: 143–144, 147–148), despite being obliged to cover these matters (Pawlak, Lashchuk 2020: 14). This may result in migrants being oblivious to the fact that remuneration is quoted as a gross value and taxes need to be deducted, or they might be working based on the wrong permit, for the wrong employer, or that they are living in the country using forged documents (Białas, Domańska 2012: 143–144). Other fraudulent activities of recruitment agencies and other intermediaries mentioned in the literature include demanding undue charges for finding a job, remuneration deductions beyond the provisions of the contract, or providing untranslated contracts. They also engage in document fraud, e.g. hiring without a work permit, unwillingness to sign a contract, offering a different type of contract than what was promised or making migrants sign a contract that is unfit for the job, or providing visas based on false declarations of intent to hire¹⁶ (Zespół do Spraw Migracji 2020: 10; see Szulecka, Klaus 2021 for detailed analysis of the scope and types of fraud). There is also blackmail and abuse of migrants' difficult economic situation to "convince" them to sign contracts with worse working conditions (e.g. longer working hours), improperly posting migrant workers abroad (see Brzozowska *et al.* 2021 for an overview of this issue), or refusing to pay overtime (Keryk 2018: 3–8; Keryk 2017: 107; Zespół do Spraw Migracji 2020: 15, 29).

All these reported cases of infringement and deception influence all types of legal knowledge, possibly creating a false representation of the law, the legal and institutional systems and the employment framework, thus impacting further elements of LC. However, their impact is more profound when we realise that they are directly connected with making an immigrant's legal status semi-legal or illegal. Thus, a precarisation loop is created. LC based on false premises impacts the migrant's agency and status, further limiting their ability to gather knowledge and act towards legality.

Moreover, it is also speculated that while some migrant groups become more aware of their rights and thus less dependent, others are actively kept in a state of dependence by employers and agencies, who limit their opportunities to expand their knowledge of the Polish labour market and the better options available there (this is particularly true for migrants outside the simplified procedure) (Górny *et al.* 2018: 109). Obviously, it is naïve to assume that if there are problems with the immigrants' employment, it is always caused by agencies or other intermediaries. Before

¹⁶ Declarations are submitted by employers, not agencies, but intermediaries often convince people into assuming the *role of employer*, who could provide imposturous declarations (Szulecka, Klaus 2021:100–101). This led to a trade of declarations, which entailed migrants paying for them. As study points out, even though migrants were aware of the fictionality of job offers based on such declarations, they were not aware of the legal consequences (Górny *et al.* 2018: 100–101).

their proliferation, similar cases of abuse could have been attributed to employers and the migrants themselves. Some authors point out that both sides accept the widespread phenomenon of illegal jobs in the labour market (a contextual variable), considering it to be mutually beneficial (Segeš Frelak, Bieniecki 2012: 7–8). However, this perpetuates the disadvantaged situation of migrants by justifying their passiveness in legalising their work and stay, fuelling a unique legal culture of employment.

Many studies investigating the role of migrants' social networks in their mobility highlight the support they provide in job hunting. This includes warning about dishonest employers and agencies, providing information about job offers, recommending agencies and employers, recommending newcomers to agencies and employers, verifying working conditions and providing knowledge about workers' rights, among others (Kindler, Wójcikowska-Baniak 2019: 104). One study highlights that Ukrainians pick Poland as a destination due to the well-developed social networks that provide insights on how to go through formal proceedings (Konieczna-Sałamatin 2009: 9).

Despite that, research shows that there is a strong division between highly skilled and low-skilled workers, as well as between "old" and "new" migrants. Newcomers are perceived as a threat since they increase competition by being willing to work for a lower wage and in worse conditions. Networks become consolidated and separated, unwilling to provide support (including information) to the outsiders, playing the double role of facilitators (for members) and gatekeepers (for others) (Kindler, Wójcikowska-Baniak 2019: 106–107; Kindler 2021: 520, 523).

The dynamic between highly and low-skilled migrants is interesting, as both groups depend on agencies and/or employers to deal with formalities, although their experience differs greatly. Highly skilled immigrants view not having to deal with public administration as something normal or a welcomed perk. Employers view specialists as an investment and an asset worth protecting. By contrast, menial workers are recognised as being only profitable if stripped of all possible costs and legal rigours of the labour code¹⁷. As such, the socio-structural and socio-demographic qualities of highly skilled workers allow them to not develop fully-fledged LC, arriving straight at the general opinion about the law as being non-problematic (Kościeszka, Patzer, 2012: 118). Therefore, a lack of LC is a benefit and status symbol, whereas for non-specialist migrants, a lack (or imprecision/falsity) of legal knowledge and contact with institutions is a factor that contributes to the prevalence of their precarious work and legal status. This can go even further, as Galanciak and Huriy noted that in addition to professional competencies, media competencies may also have a differentiating quality, as low-skilled workers are less inclined to be media savvy. In the modern age, it is paramount since much of the official and informal migration-related information is relayed via the Internet, and especially social media (2020: 154–155, 157–158, 160).

¹⁷ Although this may be caused not only by malevolence but also the employers' lack of legal knowledge (Galanciak, Huriy 2020: 166).

4.2. Legal procedures and double dependence

Finding foreign workers for employers and jobs for immigrants is the main purpose of recruitment agencies. They accomplish it through online advertisements (including social media), recommendations from employers and other employees, and a network of branches and subagents. However, they are also expected to provide additional services, namely managing the whole employment process. In particular, they deal with documents and bureaucracy in the host (and origin) country, as well as accommodation and taxation (Pawlak, Lashchuk 2020: 15–16). Interestingly, these expectations come not only from the migrants but also the employers. Studies show that legal regulations related to the whole process are complex, fragmented across multiple normative acts, subject to interpretation (e.g. processed in various ways by different offices), and often subject to change and poor (chaotic, without proper *vacatio legis*) implementation (Górny *et al.* 2018: 120–121; Zespół do Spraw Migracji 2020: 13)¹⁸.

The lack of ability and uncertainty over how to efficiently organise foreign employment (they mention, e.g. formal barriers, fear of inspections, difficulty in reaching out to potential workers, lengthy procedures) force employers to delegate it to the agencies (Żadkowska 2017: 45–46). For example, officials say that employers were not aware that besides the declaration (in the simplified procedure), there are other requirements to be met for the employment to be legal (e.g. signing a contract with the employee) (Górny *et al.* 2018: 101, 104). A study conducted in Pomerania noted the lack of public employment agencies and general support for employers regarding the legal employment of migrants (Siciarek 2020: 32–33). Lacking the necessary knowledge and readily abdicating responsibility for the (il)legality of employment, employers become dependent on agencies and are thus unable to control the adequacy of recruitment.

The migrants' situation is similar but with even further-reaching implications. For them, especially if they come from outside of Europe, the agency often remains the only institution they maintain regular contact with. It provides them with documents they would not otherwise acquire, directs them to employers, and (theoretically) solves their problems. As the agency orchestrates almost every aspect of employment, migrants view it as omnipotent. It stipulates how many hours they should work and sleep, where they should work, for how much and under what conditions. This sense of powerlessness arises even if newcomers learn about some of their rights from informal sources (Kościeszka, Patzer, 2012: 111–112; Konieczna-Sałamatin 2009: 13).

This dependence on the agency frequently remains unchallenged because the migrants exhibit passiveness and torpor, which is sometimes seen as a strategic decision

¹⁸ In 2020, a Polish team for migration issues mapped migration-related problems and indicated that EU regulations are not tailored for the Polish labour market. These blanket normative acts ignore local needs and contexts, putting all countries in one basket, hampering the development of an integrated policy regarding TCNs (Zespół do Spraw Migracji 2020: 15).

to maintain reliable access to work. Many accept and even welcome the knowledgeable and dominant role of an intermediary, submitting to what they ask for without understanding the legal consequences of documents and provisions. Even if they demanded an explanation, without knowing the institutional context, employment procedure or language, they would not be able to use it (Kościeszka, Patzer, 2012: 116; Konieczna-Salamatin 2009: 13; Pawlak, Lashchuk 2020: 18).

The current shape and the commercial potential (contextual variable) of positive law discourages migrants and employers from acquiring legal knowledge related to a specific branch or the procedures and competencies to use it (LC2 and LC3) purposefully and successfully. Within this framework, even employers do not develop complete LC. It seems intentional, as they benefit from delegating most of the responsibilities connected with the employment process, creating a certain ambiguity regarding their role. As previously mentioned, migrants feel the omnipotence of the agency, which offers working conditions specified by the employer, but this separation of competencies and responsibilities is not clear for many foreigners. What is more, employers' poor legal knowledge may directly influence the migrants' legal status, as some formalities depend on them, which the newcomers are usually not informed about.

4.3. Public offices – the missing link

A factor that compounds the already complex situation of migrants is their conviction, based on negative experiences, that they cannot do anything by themselves at the office without knowledge of the Polish language or the help of a translator, but also due to the complexity of the procedures. This is because officials are usually not prepared to work with migrants, as they do not have enough manpower or the proper organisation. This opinion changes if the migrant knows Polish or has the help of a translator (Kościeszka, Patzer, 2012: 115, 117; Łotocki 2009: 20–21; Nowicka, 2020: 18–19). Most Ukrainians said they had received support from the Labour Office (which is considered a trustworthy place to look for a job). At the same time, they indicate that the biggest obstacle in asking for help is the lack of knowledge of Polish (Żadkowska 2017: 65; Galanciak, Huriy 2020: 169). However, it is important to point out the increasing access to materials in foreign languages prepared by individual public institutions. Observation allows us to state that they are most frequently translated into English, Ukrainian and Russian. Translated websites also empower foreigners to deal with their own cases, e.g. for arranging appointments to visit offices. One example is the Mazovian Voivodeship Office website. However, despite all that, migrants still report the aforementioned difficulties.

A lack of regular and direct institutional contact means that newcomers cannot verify what they are told by intermediaries or employers, and they cannot express their needs (Kościeszka, Patzer, 2012: 116; Siciarek 2020: 36). Experts also highlight

the importance of learning Polish, as it would allow migrants to read contracts and ask more about their rights, since they often wrongly assume they do not have any. Immigrants' precarious situation seems so ingrained in them that they accept their impaired legal status and entitlement as normal, further blocking them from claiming their rights (Galanciak, Huriy 2020: 168). However, due to their working hours, migrants usually do not have time to learn the language; hence their precarious employment conditions impede their ability to escape those conditions, along with their precarious legal status. Some researchers noted that even if they have the opportunity to learn Polish and strengthen their agency, they often remain indifferent, expecting someone to act for them (Białas, Domańska 2012: 150).

Migrants view the institutions responsible for securing legal employment and respect for workers' rights as control institutions that issue punishments for infringing the law. They treat them with reserve (Keryk 2018: 8), reducing their agency in the form of being able to make claims about their rights. This is not surprising considering the scale of semi-legal employment, which deprives migrants of the possibility to assert their rights or access basic social services without the risk of fines or deportation (Keryk 2017: 107; Siciarek 2020: 34). This translates to migrants having more faith in nongovernmental organisations' information and word of mouth, which is often unreliable, than public offices (Kosowicz, Nowicka 2020: 91–92).

Lacking reliable contact with public offices, migrants are deprived of official legal information about employment, procedures and their rights. Thus, they remain unable to develop any form of legal knowledge or revise what they already know. Language competence is a device through which migrants could escape precarious employment and legal status. Without it, migrants can neither develop nor use legal competence (LC2) to access the resources that help them with LC1 and LC2. Separation from public offices also fosters opinions about legal provisions and the legal and institutional system being unreliable, thus reinforcing dependence and learned ineptitude. In turn, migrants act within a specific legal culture of multiple dependencies and deprivation loops, in which the actors with the strongest bargaining power in no small part remain legally ignorant, and those needing information are left in continuous ambiguity.

5. Conclusions

To ascertain how economic migrants' legal consciousness is shaped, we proposed a model based on the one created by Borucka-Arctowa and expanded it in four ways. First, we incorporated ideas from Horák, Lacko and Klocek, whose findings helped develop an understanding of what should be considered legal knowledge. We then specified underlying factors, taking into account characteristics that are relevant to migrants. We also acknowledged the existence of a feedback loop between LC as

a whole and the underlying factors that shape it. Finally, we added phenomena that occur in the binational sphere and at the international level that influence various elements of the main process of LC formation and which are, conversely, impacted by it. The proposed model is a useful tool to describe and frame socio-legal considerations regarding migrants, as we found evidence for factors and phenomena from each level, confirming the identified links.

We also determined that migrants need extensive knowledge of legal regulations, which they should largely acquire before coming to Poland. The current legal regulations have undergone significant changes, especially recently. This results in numerous difficulties in foreigners being able to properly verify their legal status, obligations and rights related to legalising their stay and work. Ignorance of these obligations can have disastrous consequences – including deportation and a temporary re-entry ban.

Economic migrants gather information about the law, legal proceedings, their rights and the labour market from various sources, but predominantly from employment agencies, social networks that maintain cross-border relations (i.e. current, prospective and return migrants), employers, the Internet and public offices. The influence of these actors on migrants is not balanced. A significant portion of the information and legal knowledge is relayed by agencies and social networks, whose reliability can be questioned. Indeed, the agencies have received much bad press due to reports of being deceitful. Social networks are considered more trustworthy and provide information covering all topics connected with employment. However, the networks seem to be divided into groups of highly skilled and low-skilled workers, as well as “new” and “old” migrants.

Moreover, even if other migrants are willing to give advice, it may, in fact, be a dis-service because they may also have knowledge based on false premises, or they may have their own agenda to deceive newcomers. Employers often use the services of agencies, artificially separating themselves from employees. The most reliable source of legal information for migrants is public offices, but they seem to be the least accessible for migrants due to the lack of language competencies on both sides, and the strong dependence of employers and migrants on agencies.

The picture that emerges from the research is that many migrants, who are dependent on intermediaries, do not know, much less understand, the procedure for obtaining the right to enter and work in a host country, e.g. what the scope of institutions’ competencies is, what their legal status is, what type of contract they have, or how to claim their rights. This issue is further compounded by the general inaccessibility of legal information in a form that would be understandable for them (e.g. in their language). Often, there is not even a guide showing where to look for information or help in the case of labour-related problems (Kościeszka, Patzer, 2012: 114–115; Białas, Domańska 2012: 142, 151; Żadkowska 2017: 69; Siciarek 2020: 34; Kosowicz, Nowicka 2020: 91; Pawlak, Lashchuk 2020: 19).

Based on the analysed cases, it can be said that migrants lack most types of legal knowledge. As they cannot learn about or understand the legal provisions, combined with the scarcity of information shared by intermediaries or employers, they are left without general knowledge of the legal system or labour and civil law codes. Thus, they do not develop LC1 and LC3. If they leave it to agencies or employers to deal with public administration in the host country, they are unable to navigate the institutional system and claim their rights, which is connected with legal awareness (LC2). Inaccurate legal knowledge and the inability to acquire the right knowledge lead to negative opinions about the law. It also fosters attitudes such as passiveness and torpor, mixed with entitlement and the expectation that someone should act for them. Therefore, migrants deny themselves and are being denied agency, remaining entangled in a web of dependency that impacts their legal status, thus contributing to a loop of precarity.

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Legal acts:

1. Act of the 26th of June 1974 Labour Code. JL, i.e. of 2020, item 1320, as amended.
2. Act of the 20th of April 2004 on employment promotion and labour market institutions. JL of 2022, item 690, as amended.
3. Act of the 15th of June 2012 on the results of employing foreigners staying illegally on the territory of the Republic of Poland. JL 2021, item 1745. Act of the 12th of December 2013 on foreigners. JL, i.e. 2021, item 2354, as amended.
4. Act of the 2nd of March 2020 on specific solutions related to preventing, counteracting and combating COVID-19, other infectious diseases and crisis situations caused by them. JL, i.e. of 2021, item 2095, as amended.
5. Act of the 12th of March 2022. on assistance to citizens of Ukraine in connection with armed conflict on the territory of that country. JL item 583, as amended.
6. Council Implementing Decision (EU) 2022/382 of the 4th of March 2022 establishing the existence of a mass influx of displaced persons from Ukraine within the meaning of Article 5 of Directive 2001/55/EC, and having the effect of introducing temporary protection. OJ L 71, 4.3.2022, p. 1–6.
7. Council Directive 2001/55/EC of the 20th of July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof. OJ L 212, 7.8.2001, p. 12–23.

8. Ordinance of the Minister of Family, Labour and Social Policy of the 8th of December 2017 on countries whose nationals are subject to certain provisions concerning the seasonal work permit and provisions concerning the statement on entrusting work to a foreigner. JL item 2349.
9. Ordinance of the Minister of Foreign Affairs of the 28th of May 2021 on the countries in which foreigners may apply for a visa by the Minister in charge of foreign affairs. JL item 993.
10. Regulation (EC) No 810/2009 of the European Parliament and of the Council of the 13th of July 2009 establishing a Community Code on Visas (Visa Code). OJ L 243, 15.9.2009, p. 1–58.
11. Regulation (EU) 2018/1806 of the European Parliament and of the Council of the 14th of November 2018 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement. PE/50/2018/REV/1. OJ L 303, 28.11.2018, p. 39–58.