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# Introduction

This manual contains information to help legal migrants from outside the European Union looking for work and hoping to stay in Poland for a longer time. Sections of the manual on employment and legalizing a stay legal do not focus on rules that apply to foreign nationals from the European Union or the European Economic Area. This manual also does not provide information about education or establishing a business in Poland. However, other recent publications discuss these topics<sup>1</sup>. This manual provides the most important information to help people who are employed or looking for work. The main topics are legalizing a stay, employment permits, and typical tax and insurance situations. There is a glossary to help understand the most important and often-used terms and abbreviations. In addition, the manual includes a list of government offices important to foreigners with explanations about the responsibilities of each institution. The section on legal protection explains what to do in case of discrimination, racist violence or crime. Brief information about Poland, such as its political and administrative system, holidays, days off work, a list of churches and religious associations, migrant organizations and organizations that should help migrants better understand Poland

This manual does not cover all issues important to migrants in Poland. In selecting issues, we used conclusions developed by the *Migrants in Poland – information and legal aid* program and the many years of experience provided by programs of the Helsinki Foundation for Human Rights – *Free Legal Aid for Foreigners and Refugees*, *Minority Rights Program* and the *RAXEN National Contact Point* of the European Union Agency for Fundamental Rights. Foreigners, their friends and family living in Poland contributed to the “Navigating Poland” section. They were especially helpful in pointing out which areas of life are most difficult to navigate, which information is not easy to find, and what procedures are the hardest to deal with. We sincerely thank all of them for their ideas, advice, and suggestions.

Although this manual focuses on migrants seeking work or looking to stay in Poland for some time, much of the information it contains will be helpful to a much larger group. We hope it will make it easier to acclimate in Poland and contribute to their faster and easier integration into Polish society.

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1 Eg. The Local Bar Association Publishes the *Information for foreigners on studying in Polish schools and universities* (Warsaw 2009). Information on registering a business by foreigners is described at [www.migrant.info.pl](http://www.migrant.info.pl)

## Section I. Poland: Brief information

Area – 312 685 km<sup>2</sup>

Population – 38 157 055 (2006)

Capital – Warsaw

Official language – Polish

Currency – Polish Złoty (zł), 100 groszy (gr)

Units of measure – metric system, temperature in Celsius

Time zone – winter: Central European Time, CET (UCT +1), summer: CET (UCT +2)

Administrative divisions – 2478 gminas (counties), 314 powiates (districts), 16 voivodeships (provinces).

Voivodeships and capitals: Dolnośląskie Voivodeship – Wrocław, Kujawsko-pomorskie Voivodeship – Bydgoszcz/Toruń, Lubelskie – Lublin, Lubuskie – Gorzów Wielkopolski/Zielona Góra, Łódzkie – Łódź, Małopolskie – Kraków, Mazowieckie – Warszawa, Opolskie – Opole, Podkarpackie – Rzeszów, Podlaskie – Białystok, Pomorskie – Gdańsk, Śląskie – Katowice, Świętokrzyskie – Kielce, Warmińsko-mazurskie – Olsztyn, Wielkopolskie – Poznań, Zachodniopomorskie – Szczecin.

Administrative map of Poland



## 1. Political system

The Republic of Poland is a multiparty democracy with a parliamentary and cabinet system. The president is Head of State. Three branches of government share power. The parliament, with its two houses (lower house – Sejm, upper house – Senate), holds legislative powers, courts and tribunals are responsible for judiciary powers, while the prime minister who heads the government’s council of ministers, as well as the president, share executive powers. The government wields power centrally and through representatives on the voivodeship level through voivodes (voivodeship offices support voivodes in their duties).

The Polish system is one of decentralized public authority. Laws establish which powers belong to local authorities. Local government breaks down into gminas (counties, i.e. the lowest level), poviates (districts, these include cities that have poviate rights) and voivodeships (provinces). The decision-making bodies of gminas and poviates are councils while voivodeships use regional assemblies. Executive authorities: voivodeship – marshal, poviate – starosta, gmina – depending on size and type – vojt or city mayor/president.

The president of the Republic of Poland, Parliament, and local authorities are chosen through popular elections. Presidential elections are held every five years. Parliamentary elections to elect Sejm deputies and Senators are held every four years, or more frequently in the event of a shortened term of office. Local authorities are also elected every four years. Voits, mayors and city presidents, as well as the President of the Republic of Poland, are elected through direct elections.

All citizens of Poland over the age of 18 are eligible to vote (unless they have been stripped of this right). Citizens of the European Union with permanent residency in Poland may also vote and run for office in local elections. They may also vote and run for office in European Parliamentary elections.

## 2. Religion

Most Poles are Catholics, with an estimated 95% of the population belonging to the Roman Catholic Church. Many other Christian churches are also present in Poland. The second in size is the Polish Autocephalous Orthodox Church. Protestant churches make up a significant group – Evangelical-Augsburg Church, Polish Reformed Church, Union of Christian Baptists, the Evangelical-Methodist Church, Pentecostal Church, and Seventh Day Adventist Church. There are also Jewish communities and several associating Muslims, Hindus, and Buddhists (Annex 1 contains a list of churches and denominational associations).

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Poles are a religious nation. That is why the Roman Catholic Church is visible in public life, schools teach religion, and Christian religious symbols are visible in numerous public places.

### 3. Holidays and days off work

In Poland, all Sundays and 12 other days, state and Roman Catholic religious holidays, are legal holidays. Legal holidays in Poland: 1 January – New Year’s Day, the first and second days of Easter (calendar holiday, occurs in March or April), 1 May – Labor Day, 3 May – Anniversary of the 3 May 1791 First Polish Constitution, Pentecost (celebrated seven weeks, i.e. 49 days, after Easter, always on Sunday), Corpus Christi (calendar holiday that usually occurs in June, always on a Thursday), 15 August – Assumption of the Virgin Mary (and at the same time, Military Day), 1 November – All Saints Day, 11 November – Polish Independence of 1918 Day, 25 December – first day of Christmas, 26 December – second day of Christmas. The majority of stores and businesses must close on these days, with only petrol stations and small stores remaining open.

Polish law provides that the workweek is five days long with two days off. One of those days is always Sunday, with employers allowed to pick the second day – most often it is Saturday.

The law on freedom of conscience and denomination requires that persons of other denominations whose religious holidays are not legal holidays may, at their own request, be granted days off work or study for the time required to celebrate holidays in accordance with their religion. Underage persons may take advantage of this right at the request of their parents or legal guardians. Days off work granted must be worked off during legal holidays or overtime – without additional pay.

### 4. Emergency telephone numbers in Poland

**999** – Ambulance

**997** – Police

**998** – Fire Department

**986** – Municipal Guard (only some cities)

**981** – Roadside Assistance

**112** – European emergency number, to be used in the event of: fire, traffic accident, burglary, theft, violence, recognizing a fugitive in Poland, electrocution, fainting and/or loss of consciousness, serious bodily injury or bleeding, or other

situations that threaten life or health. Callers will be connected to an operator, who will summon the appropriate assistance (ambulance, fire department, police).

**I.C.E.** – (In Case of Emergency) use this name to denote the person/telephone number to be called in the event of an emergency on your mobile telephone.

More information about Poland is available at [www.poland.gov.pl](http://www.poland.gov.pl).

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## Section II. Important abbreviations and terms

**PESEL** – the word PESEL is an acronym of *Powszechny Elektroniczny System Ewidencji Ludności* (Popular Electronic Census System), while the actual PESEL number is a unique 11-digit series that registers a person in that system. Individuals with permanent or temporary residency longer than three months in Poland receive assigned PESEL numbers. PESEL number identification is necessary in many important situations, e.g. when using state health insurance.

**Zameldowanie (a.k.a. meldunek)** – (Residency Registration) registration in the gmina/city office of the fact that a given person resides in a given place (flat or home). Residency Registration may be for a temporary stay of up to three months, a temporary stay in excess of three months, or for permanent residency.

**Karta pobytu** – (Legal Alien Document) an identification document issued to foreign nationals (i.e. aliens) in Poland confirming their Legal Residency in Poland for a Set Period of Time, the legal Long-Term Residency of a European Community Citizen, or Permit for Settlement in Poland. The Legal Alien Document (along with a travel document, e.g. passport) entitles the holder to multiple entries into Poland without a visa.

**NIP** – an acronym of *Numer Identyfikacji Podatkowej* (Tax Identification Number), a 10-digit number identifying a taxpayer, which is required to pay taxes. This number is assigned by a local *Urząd Skarbowy* (Treasury Office).

**PIT** – Personal Income Tax form. PIT forms have various numbers depending on the source of the declared income. PIT forms may be downloaded from the Internet, with the most current forms available from the page of the Ministry of Finance ([www.mf.gov.pl](http://www.mf.gov.pl)).

**OFE** – *Otwarty Fundusz Emerytalny* (Open Retirement Fund – ORF). In Poland, social security contributions are deducted from wages to two institutions: *Zakład Ubezpieczeń Społecznych* (ZUS, i.e. Social Insurance Office, the so-called First Pillar) and to one of the many available Open Retirement Funds (Second Pillar). A person beginning employment in Poland selects which OFE (ORF) it wants to receive its contributions. If no selection is made, an Open Retirement Fund will be assigned at random.

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**ZUS RMUA** – a statement of deductions/payments made to social and health insurance provided each month to an employee by the payer (employer).

**NFZ** – *Narodowy Fundusz Zdrowia* (National Health Fund [NHF]) is the state institution that distributes funds from premiums paid for mandatory health insurance coverage. The NFZ logo indicates healthcare facilities that provide medical services as part of the public healthcare service.

**ZUS** – *Zakład Ubezpieczeń Społecznych* (Social Insurance Office [SIO]) is the state institution responsible for most matters related to social insurance in Poland.

**OC** – *ubezpieczenie od odpowiedzialności cywilnej* (vehicle civil liability insurance), which is mandatory for vehicle owners (it is used to cover any damages caused by that vehicle). Civil liability insurance is also available against other accidents and liabilities.

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## Section III. What and where – a list of important government offices and areas for which they are responsible

GOVERNMENT OFFICE	DESCRIPTION	RESPONSIBLE FOR
URZĄD WOJEWÓDZKI (VOIVODESHIP OFFICE)	Government administration on the voivodeship level. Voivodeship offices are located in voivodeship capitals and delegated locations. List of voivodeship offices – Annex 2	Legalization of stay in Poland, issuing Legal Alien Documents; matters related to repatriation; foreign national employment permits.
URZĄD DO SPRAW CUDZOZIEMCÓW (OFFICE FOR FOREIGNERS)	Central Office Address: ul. Koszykowa 16 00-564 Warsaw tel. (22) 601 74 02 fax (22) 601 74 13  <a href="http://www.udsc.gov.pl">www.udsc.gov.pl</a>	Appeals of applications to legalize stay in Poland denied by the Voivodeship Office, review of asylum applications.
URZĄD GMINY (COUNTY OFFICE)  URZĄD MIASTA (CITY OFFICE)	These offices are located in every county and city. In larger cities, local offices are responsible for their city districts – you must apply to the office/section appropriate for your address of residence.	Registering residency of a foreign national for a temporary or permanent stay; assigning a PESEL number; issuing vehicle registration, driving licenses.

Section III. What and where – a list of important government offices... 17

<p>URZĄD STANU CYWILNEGO  (CIVIL REGISTRAR)</p>	<p>An organizational unit of the county/city</p>	<p>Registering the birth of a child, deaths, marriages and other matters related to changes in civil status; issuing copies of birth, marriage and death certificates; recording foreign civil registrar documents in Polish records; recording paternity of a born or conceived child.</p>
<p>URZĄD SKARBOWY  (TREASURY OFFICE)</p>	<p>These offices are located in most cities. Larger cities have several offices and you must apply to the office appropriate for your address of residence.</p>	<p>All tax related settle- ments.</p>

*Karolina Rusiłowicz*

## Section IV. Legalizing a stay in Poland

### 1. What conditions must a foreign national meet to enter Poland?

A foreign national may cross the border and remain in the Republic of Poland, if he or she has:

- 1) a valid travel document (e.g. passport), and
- 2) a valid visa or other document (e.g. permit, passes in certain cases) allowing for his or her entry and stay in Poland, if such is required.

Citizens of the following states may enter and stay in Poland for up to 90 days without a visa: Andorra, Antigua and Barbuda, Argentina, Australia, Bahamas, Barbados, Brazil, Brunei Darussalam, Chile, Croatia, Guatemala, Honduras, Iceland, Israel, Japan, Canada, South Korea, Costa Rica, Liechtenstein, Malaysia, Mauritius, Mexico, Monaco, Nicaragua, New Zealand, Norway, Panama, Paraguay, El Salvador, San Marino, Saint Kitts and Nevis, Seychelles, Singapore, Switzerland, United States of North America, Uruguay, Vatican, Venezuela as well as residents of Hong Kong SAR and Macao SAR, specially administered regions of the Chinese People's Republic and British Nationals (Overseas). Citizens of the European Union also do not require visas.

**NOTE:** Visas are required for individuals traveling for purposes of study, employment or other gainful activity.

If an individual is subject to the visa requirement, failure to possess a visa will result in refusal of entry into Poland. Presence in the Republic of Poland after the expiration of a visa or in the event of refusal to extend a visa is illegal.

### 2. Types of visas

Some visas allow visitors to enter Poland once, others allow for two or multiple entries during the visa's validity.

- 1) **Category C uniform short-stay visa (Schengen visa) entitles the holder to a** continuous visit or several visits to the Schengen Zone, the duration of which does not exceed three months in any half-year from the date of first entry into the Zone<sup>2</sup>.
- 1) **Category D national visa** entitles the holder to enter and remain in Poland or several entries and stays of more than three months but less than one year during the visa's validity.

NOTE: A foreign national holding a Category D national visa is entitled to a single transit through other Schengen states for the purpose of reaching the state that issued the visa. However, a Category D national visa does not entitle the holder to transit through other Schengen states for purposes of returning to their country of origin.

## 2.1. Getting a visa

To obtain a visa, submit a visa application to a **consul** (who may grant or refuse the visa). Consular offices that receive visa applications are located in Polish consulates and embassies in various countries. If there is no Polish Consulate in a given country, an applicant must travel to such an office in another country. Refusals to grant visas are final and cannot be appealed. Visas are issued as uniform visas (stay or transit) or as national visas.

To apply for a visa, an applicant must have a travel document with a date of validity at least three months longer than the Polish national visa or Schengen uniform visa for which he or she is applying.

A nonrefundable visa application fee of 60 euro (in most cases) is due and payable prior to submitting a visa application for uniform as well as national visa applications.

The following must be included with visa applications:

- 1) Photographs of all visa applicants (follow the format specified on visa application),
- 2) Documents confirming the purpose of the trip (invitation, proof of acceptance into university, etc.),

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2 Most European Union states are members of the Schengen Zone: Austria, Belgium, Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Portugal, Poland, Slovakia, Slovenia, Spain, and Sweden, as are several non-EU states: Norway, Iceland, and Switzerland.

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- 3) For uniform stay visas – proof of insurance, where the insurer agrees to cover costs of medical care within Schengen states of at least 30 000 euro for the duration of the stay in the state,
- 4) For national visas – proof of health insurance as required by regulations for providing publicly financed healthcare or proof of coverage of healthcare costs in Poland for the duration of the intended stay,
- 5) Proof of payment of the visa application fee.

A foreign visitor should also have enough money to cover living expenses for the duration of the planned stay and to pay for the return trip (or transit) to the country of origin, or a document confirming the ability to legally obtain such funds (such as an invitation where the inviting party agrees to cover these costs). These requirements do not apply to foreigners in Poland with employment permit visas.

### 2.2. How to apply for an employment permit visa

An employment permit visa is issued either as a national or uniform visa. Employment permit visas are issued pursuant to an employment permit in Poland or, if an employment permit is not required, a written statement by an employer of the intent to employ the foreign national.

Employment permit visas are issued (or refused) by the consulate **appropriate for the foreign national's country of permanent residence**. If a foreign national is legally present in a European Union member state, a European Free Trade Agreement (EFTA) member state<sup>3</sup>, another consul may also issue the visa.

An employment permit visa is issued for the duration/validity of an employment permit or the employment period (set out in the employer's declaration). However, employment permit visas are not issued for more than one year (for national visas), or three months (for uniform travel visas).

**The employment permit visa application procedure is the same as for stay visas.**

### 2.3. Can a visa be extended in Poland?

A visa extension will be granted only if **all** of the conditions below are met:

- 1) The extension supports the foreign national's material professional or personal interest, or humanitarian considerations;

- 2) The events causing the need to extend a visa occurred independently of the foreign national's intent and were impossible to foresee at the time the visa was originally issued;
- 3) Circumstances of the case do not indicate the purpose of the stay will be other than declared;
- 4) No circumstances support visa refusal.

The duration of stay in Poland on an extended visa may not exceed the maximum period for a given visa type (three months for a uniform travel visa, or one year for a national visa).

File applications for visa extensions with the appropriate voivodeship office for the foreign national's place of residence, using an appropriate form available at e.g. [www.mazowieckie.pl](http://www.mazowieckie.pl). Visa extension applications must be made **at least seven days before the expiration of a uniform Category C stay visa, and at least 14 days before the expiration of a Category D national stay visa.**

A foreign national applying for a visa extension must provide reasons for the extension, include documents to prove the circumstances described in the application and photographs of individuals covered by the application. Visa extension application fee: 60 euro for a uniform visa; 406 zł for a national visa. A decision will be issued awarding or denying the extension.

If the voivodeship office fails to issue a decision prior to the expiration of the legal stay pursuant to the previously issued visa, the foreign national shall be issued a national visa that will be valid until the extension decision is made (called a procedural visa). This procedural visa is annulled after the final decision on the extension application is issued.

If the visa extension application is not timely made within the above periods and the proceeding in this manner is not completed before expiration of legal stay pursuant to the visa held, the foreign national (applicant) will be required to leave Poland and await the decision abroad.

### 3. Getting a residency permit in Poland

In the event of **circumstances that justify presence in Poland for more than three months**, a foreign national present in Poland may apply for a '*Zezwolenie na zamieszkanie na czas oznaczony*' (Residency Permit for a Set Period of Time).

Circumstances in which foreigners **most frequently** apply for Residency Permits for a Set Period of Time include:

- 1) After obtaining an employment permit, or after obtaining a written declaration from an employer of intent to employ a foreign national if an employment permit is not required,

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- 2) Running a business registered in Poland, beneficial to the Polish economy, especially those that contribute to increased investment, technology transfer, introduction of beneficial innovation or creation of new jobs,
- 3) Marriage to a Polish citizen,
- 4) Intent to enter Poland as a member of a foreign national's family present in Poland, or presence in Poland for the purpose of reuniting with family<sup>4</sup>,
- 5) Presence or stay in Poland for the purpose of beginning or continuing university or doctoral studies (including for the purpose of beginning university studies in another member state of the European union, which studies are to be continued or supplemented in Poland).

NOTE: The above list does not cover all foundations for a Residency Permit for a Set Period of Time application. Appendix 5 lists all circumstances that constitute a basis for granting a Residency Permit for a Set Period of Time.

The Residency Permit procedure depends on the reason the given applicant wants to receive a permit. For example, the procedures differ for employment versus marriage to a Polish national. The sections below describe these procedures.

### 4. Consequences of illegal presence in Poland

A foreign national shall be required to leave Poland prior to expiration of their visa or previous Residency Permit for a Set Period of Time if he or she fails to obtain a new Residency Permit for a Set Period of Time or a Long-Term Residency of a European Community Citizen permit. Failure to leave Polish territory means the foreign national's continued presence will be illegal in Poland.

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4 This regulation applies to foreign nationals present in Poland pursuant to, amongst other, settlement permits based on permit for long-term European Community resident status or foreign nationals present in Poland for at least two years pursuant to a Residency Permit for a Set Period of Time. In these cases, directly prior to submitting a Residency Permit for a Set Period of Time application for a family member, such a foreign national must be present in Poland pursuant to a permit valid for at least one year. Spouses (only those in unions recognized by Polish law, e.g. polygamous or same-sex unions will not be recognized as such), minor children and adopted to children are recognized as family members.

NOTE: A foreign national exempt from the visa requirement who has entered Poland pursuant to a visa (e.g. for employment or study purposes) is required to leave Poland after expiration of that visa if the visa is not extended or a Residency Permit for a Set Period of Time is not obtained.

An individual present in Poland illegally may be detained by Border Guard services or police, compelled to leave Poland, placed in a detention center or arrest pending deportation (pursuant to a court decision), and, ultimately, deported. If a decision to deport is issued, the foreign national's information is recorded in the Schengen Information System database of persons forbidden from entering Poland (*persona non-grata*) for three or five years. If a decision compelling an individual to leave Poland is issued, the foreign national's information is registered in a database of individuals who may not enter Poland for a period of one year<sup>5</sup>.

## 5. Procedure for legalizing a stay in Poland: general information

All applications and letters must be in Polish. Government offices do not provide translations during hearings or visits; applicants must provide their own translators. A foreign national may act through an agent or proxy, which may be any individual of legal capacity, i.e. someone who is 18 or over and not deprived of ability to perform legal acts. Please be wary of fraudulent agents/proxies.

Numerous applications require information regarding travel during the five years preceding the application. Listing false information and/or giving false or incomplete testimony are bases for permit refusal.

If a foreign national is submitting an application in person, an official may not refuse to receive it, even if certain documents are missing or if the application is clearly without proper foundation. In the event required documents are missing from the application, the voivodeship office must notify the foreign national to provide them within 7 or 14 days. To expedite matters, always provide the case

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5 This does not apply to the personal information of a spouse of a Polish national or the spouse of a foreign national present in Poland pursuant to a Settlement Permit (*Zezwolenie na osiedlenie się*) or a Long-Term Residency of a European Community Citizen permit (*Zezwolenie na pobyt rezydenta długoterminowego WE*) – (unless his or her stay in Poland constitutes a threat to national defense or security or public order/security) as well as the personal information of a foreign national with a Settlement Permit or Long-Term Residency of a European Community Citizen permit.

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reference number (the *sygnatura*) in correspondence. Failure to provide missing documents or add missing information on time may result in the application not being reviewed.

In most cases, the government office has one month to consider an application, though that deadline may be extended by the office to two months in complex matters. A foreign national must be notified of the reasons the government has not met the aforementioned deadline and be given a new deadline for completion of the administrative proceeding in his or her case. In practice, the government issues such notices of deadline extension to applicants several times in each case.

**Each permit proceeding has two instances.** This means a decision of the first instance can be appealed to the second instance: a decision of the voivodeship office must be appealed to the Head of the Office for Foreigners. A decision of the second instance is final, although it may still be appealed to the Voivodeship Administrative Court (filing a complaint requires payment of a fee, though partial or full fee waivers may be requested).

### 6. Legalizing a stay in Poland for work-related purposes

A foreign national who has obtained an employment permit in Poland or has a written declaration of the intent to employ that individual by an employer (if a permit is not required), may seek a Residency Permit for a Set Period of Time.

A Residency Permit for a Set Period of Time application is filed with the local voivodeship office appropriate for a given address of residency.

A foreign national seeking a Residency Permit for a Set Period of Time must submit the following documents:

- 1) **4** copies of the Residency Permit for a Set Period of Time application (applications are available in voivodeship offices and on the Internet page of the *Mazowiecki Urząd Wojewódzki* [Mazovian Voivodeship Office] – [www.mazowieckie.pl](http://www.mazowieckie.pl)),
- 2) **4** color photographs size 4.5 cm × 3.5 cm, undamaged, in focus, showing the individual without any covering or colored/tinted glasses, showing the left half-profile, with the left ear visible and even lighting of the face<sup>6</sup> (add a fifth photograph to speed up the processing),

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6 This is a standard photograph for identification documents in Poland. To get the correct photograph, simply ask the photographer for a picture for a personal identification document (i.e. *dowód osobisty*).

- 3) A valid travel document (two photocopies and original for review and return); in exceptional cases, another identification document may be presented,
- 4) Proof of payment of the application fee – 340 zł,
- 5) Proof of temporary residency (See Point 11 of this section),
- 6) Legal title to the address where he or she is living (e.g. lease agreement, but not agreement to use premises, unless the party permitting the use is immediate family),
- 7) Employment permit or written declaration by an employer of the intent to employ the foreign national (if an employment permit is not required),
- 8) Permit for employment of a foreign national in Poland for duration of stay pursuant to permit/visa or written declaration by an employer of the intent to employ the foreign national (if an employment permit is not required),
- 9) Employment agreement (*umowa zlecenia* [mandate/commission contract], *umowa o dzieło* [contract to perform a specific task]),
- 10) Tax forms: PIT-37 or PIT-40 for preceding year (if the permit is to be renewed),
- 11) Proof of good standing from local Treasury Office (i.e. no tax arrearages),
- 12) Proof of health insurance or coverage by insurer of health care costs in Poland,
- 13) Proof of housing costs (these costs are calculated to include at least the level of fixed fees per individual at a given address plus utility bills).

A foreign national seeking a Residency Permit for a Set Period of Time should have a stable and regular source of income sufficient to cover his or her living expenses and expenses of dependent family members. This requirement is also met if a member of the foreigner's family living in Poland has agreed in writing to cover those living expenses. Income, less housing expenses per dependent family member, must exceed 351 zł<sup>7</sup> (if the foreign national is living alone amount is 477 zł) i.e. the income levels at which state social poverty assistance payments are made.

By law, the Residency Permit for a Set Period of Time application should be reviewed within one month (and two months for complex matters). If the government cannot meet the above deadline, the foreign national should receive written notice of the reasons for the situation and a new deadline by which the application will be reviewed. In practice, the government issues such notices and defers deadlines several times.

If the application is approved, the voivode issues a Residency Permit for a Set Period of Time and a Legal Alien Document. An appeal may be filed if the application is refused.

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### 7. Legalizing a stay after marrying a Polish citizen

A foreigner who has married a Polish citizen may apply for a Residency Permit for a Set Period of Time. Noncitizen spouses of Polish nationals must enter Poland on general terms. However, their illegal presence in Poland may not constitute a basis for refusing a Residency Permit for a Set Period of Time. A foreigner, who has married a Polish citizen and remains abroad, may also apply for a Residency Permit for a Set Period of Time through a Polish consul to the appropriate voivodeship office (select the appropriate local voivodeship office based on the place of intended residency).

A foreign national who has married a Polish citizen and is seeking a Residency Permit for a Set Period of Time, should submit the following documents to the voivodeship office:

- 1) **4** copies of the Residency Permit for a Set Period of Time application (applications are available in voivodeship offices and on the Internet page of the *Mazowiecki Urząd Wojewódzki* [Mazovian Voivodeship Office] – [www.mazowieckie.pl](http://www.mazowieckie.pl)),
- 2) **4** color photographs size 4.5 cm × 3.5 cm, undamaged, in focus, showing the individual without any covering or colored/tinted glasses showing the left half profile with left ear visible and even lighting of the face<sup>8</sup> (add a fifth photograph to speed up processing),
- 3) A valid travel document (two photocopies and original for review and return); in exceptional cases, another identification document may be presented,
- 4) Proof of payment of the application fee – 340 zł,
- 5) Proof of temporary residency registration (See point 11 of this section),
- 6) Legal title to the address where he or she is living (e.g. lease agreement, but not agreement to use premises, unless the party permitting the use is immediate family),
- 7) Valid copy of marriage certificate (*aktualny odpis aktu małżeństwa*)
- 8) Copy of spouse's personal identification document.

If the foreign national is present in Poland illegally, he or she will not be able to present a temporary or residency registration document. This fact cannot constitute a basis for refusing the Residency Permit for a Set Period of Time.

A foreign national married to a Polish citizen is exempt from the requirement of proving proof of a stable and regular source of income sufficient to cover his or her and dependents' living expenses. When applying for a Residency Permit for

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8 This is a standard photograph for identification documents in Poland. To get the correct photograph, simply ask the photographer for a picture for a personal identification document (i.e. *dowód osobisty*).

a Set Period of Time based on marriage to a Polish citizen, the maximum two-year period may be sought (i.g. in the application).

In the review proceedings, the voivodeship office will investigate if the marriage is genuine and that it was concluded for legal ends. The following may constitute a basis for judging the marital union fraudulent:

- 1) One of the spouses received material gains in exchange for concluding the marital union (unless such is customary in a given country or social group),
- 2) The spouses fail to perform legal duties arising under the act of marriage,
- 3) The spouses do not cohabit (i.e. they do not live together),
- 4) The spouses have never met prior to concluding the marital union,
- 5) Neither spouse speaks a language the other can understand,
- 6) The spouses' statements differ as to their personal information and other significant individual circumstances,
- 7) One or both of the spouses have concluded fraudulent marital unions in the past.

To make sure a marriage is not a fraud, the voivodeship office will call the foreigner's spouse, family members and friends as witnesses, often several times. The spouses will be interviewed separately and asked questions ranging from a description of their first meeting to the husband's favorite meal. The answers are then compared. The border guard or police often check if the spouses live together at the listed address as well as interviewing neighbors (they ask neighbors if they have seen the spouse of the Polish citizen, e.g. if the spouses live separately). As a result, the procedure for reviewing a Residency Permit for a Set Period of Time application usually takes far longer than the one or two months it should theoretically take (the foreign national should be notified in writing of each such extension and new deadline).

In the event of the death of a spouse or divorce, a Residency Permit for a Set Period of Time will be granted only if supported by the foreign national's particularly significant interest. A foreign national who has married a Polish citizen may not be expelled from Poland unless he or she is a threat to national defense, security or public order, or the marital union was concluded for the purpose of avoiding deportation. However, the mere act of marriage to a Polish citizen does not automatically legalize a stay in Poland.

## 8. When to file a Residency Permit for a Set Period of Time application; permit duration

A foreign national present in Poland must apply for a Residency Permit for a Set Period of Time **at least 45 days before the expiration of their visa or previous**

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**Residency Permit for a Set Period of Time.** If the application is filed at least 45 days before those dates, the voivodeship office will issue the foreign national a visa for the duration of the proceeding (a procedural visa). This is a domestic visa. If the 45-day filing deadline is violated, the foreign national is required to leave Poland prior to the expiration of their visa or Residency Permit for a Set Period of Time (though he or she does not have to leave if the Residency Permit for a Set Period of Time application is approved prior to the expiration date).

A Residency Permit for a Set Period of Time is necessary for each stay in Poland of less than two years.

### 9. What can I do if my Residency Permit for a Set Period of Time or Long-Term Residency of a European Community Citizen application has been refused?

The voivode grants (or refuses) the Residency Permit by issuing a decision. If the foreign national is dissatisfied with the voivode's decision, he or she may **file an appeal within 14 days to the Head of the Office for Foreigners**. That 14-day period begins to run the day after the application is refused. In case of filing an appeal by mail, the filing date is the **date of posting the registered letter** (note: it must be posted at Poczta Polska [Polish Post]). An appeal must be in writing and state that the appealing party is unsatisfied with the issued decision. It is also highly recommended to provide justification/explanation for filing the appeal. The foreign national submitting the appeal must sign it personally. The appeal must be filed through the office that issued the denial, i.e. the voivodeship office. As a result, the voivodeship office may overturn its own decision after receiving the appeal. If it does not do so, it then sends the case file to the Head of the Office for Foreigners, which should review the matter within one month from the date of receipt. If it does not do so within this time, it will set a new date for reviewing the matter. The decision of the Head of the Office for Foreigners is final. However, if the individual is dissatisfied with the decision of the Head of the Office for Foreigners, he or she may submit a **complaint to the Voivodeship Administrative Court**, which is responsible for reviewing the legality of public administrative acts. A complaint to the Voivodeship Administrative Court must be submitted within **30 days from receipt of the decision, and be filed with the Head of the Office for Foreigners** (through the Head of the Office for Foreigners).

## 10. Can I receive a refund of the application fee if my Residency Permit for a Set Period of Time application is denied?

The Residency Permit for a Set Period of Time application fee is subject to refund if the application is denied. To receive the refund, an application must be filed with the city *voit* (mayor, city president). The application fee will not be refunded if more than five years have passed from the end of the year in which the application fee was paid.

## 11. *Zameldowanie/meldunek* – Residency Registration

*Zameldowanie/ meldunek* (Residency registration) – registration in the *gmina*/city office of the fact that a given person resides in a given place (flat or home). Residency registration may be for a temporary stay of up to three months, a temporary stay in excess of three months, or for permanent residency. Residency is registered in the *gmina* (county)/city office where a person lives. It is free of charge and completed while you wait.

The following are necessary to register residency for a foreign national for a temporary stay: 1) passport (travel document), 2) travel card, visa or travel permit, and 3) personal identity document of the owner or tenant of the premises. This document may be a civil agreement, excerpt from a real state register, administrative decision, a ruling of the court or other documents confirming legal title to the premises. The owner or tenant of the premises must be present during the residency registration process.

Residency registration for up to three months is performed orally (without an application form). To register the residency of a foreign national for a temporary stay longer than three months, you must fill out, sign and submit a form available in the city office (the form is also available from the Internet page of the Office of the City of Warsaw, [www.um.warszawa.pl](http://www.um.warszawa.pl)). The owner, or other party with legal title to the premises, confirms (by their signature on the application form) the presence of the individual registering their temporary stay for longer than three months at the particular premises. Permanent residency registration follows the same procedure as residency registration of longer than three months, however, a foreign national must then have a permit to settle in Poland (you must then present a resident alien card or a copy of the decision granting the permit).

If an application to register residency for a period longer than three months or permanent residency are denied, a foreign national may appeal the denial to

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the appropriate voivodeship office within 14 days from receipt of the decision, through the office that issued the decision.

Failure to register residency is a misdemeanor pursuant to the Misdemeanor Code and is subject to a penalty of limitation of freedom, fine or admonition. However, lack of registered residency may not constitute a basis for refusal to issue a Residency Permit for a Set Period of Time.

NOTE: police frequently check if a foreign national actually lives at the address at which he or she has registered residency. If police do not find the foreign national at the address, they may leave a summons to appear at a police station or ask neighbors if the foreign national actually lives at the particular premises.

## 12. What is a PESEL number? How do I get a PESEL number?

The word PESEL is an acronym for *Powszechny Elektroniczny System Ewidencji Ludności* (Popular Electronic Census System), while the PESEL number itself is a unique 11-digit number that registers an individual within that system. A PESEL number is assigned to individuals in Poland granted a permanent stay or a temporary stay longer than three months. There are two ways to assign a foreign national a PESEL number. One is for the foreign national to apply at the gmina (city district or city) office to register residency for a permanent stay or temporary stay longer than three months. In that case, the official will start the procedure for assigning a PESEL number automatically without an additional application being necessary (the foreign national should receive their PESEL within about a month). Another option is to have the party paying the foreign national's insurance premiums (usually their employer) apply for the PESEL number. This is done through a form submitted directly to the *Departament Rozwoju Rejestrów Ministerstwa Spraw Wewnętrznych i Administracji* (Registry Development Department at the Ministry of Internal Affairs and Administration) along with a photocopy of the foreign national's travel card or passport. Assigning a PESEL number in this manner is free of charge and takes about three weeks. More information about receiving a PESEL number and a form to download are available on the Internet page of the *MSWiA* (Ministry of Internal Affairs and Administration).

Lack of a PESEL number may lead to various problems with personal identification where such a number is required. For example, a PESEL number is required to receive medications covered by the national health service free of charge (because a PESEL number must appear on the prescription).

### 13. *Zezwolenia na pobyt stały* (Permanent Stay Permits) in Poland

Settlement Permits and Long-Term Residency of a European Community Citizen permits are not limited in their duration.

#### 13.1. Obtaining a *Zezwolenie na osiedlenie się* (Settlement Permit)

Settlement Permits are granted to foreign nationals, who:

- 1) are the minor child of a foreign national with a settlement permit, born in Poland,
- 2) have been the spouse of a Polish citizen for at least three years prior to submitting a settlement permit application and remained in Poland continuously for at least two years directly prior to submitting the application pursuant to a Residency Permit for a Set Period of Time,
- 3) directly prior to submitting the application, remained in Poland for at least 10 years pursuant to a Tolerated Stay Permit or for at least 5 years pursuant to asylum or supplementary protections,
- 4) are the child of a Polish citizen and remain subject to that citizen's parenting rights.

A foreign national may apply for a Settlement Permit during a legal stay in Poland. An application by a foreign national present in Poland illegally or present outside of Poland **will not be reviewed**. An application is made to the appropriate local voivodship office based on the foreign national's residence address.

After three years from the date of marriage, the spouse of a Polish citizen may apply for a Settlement Permit if he or she has been continuously present in Poland directly prior to submitting the application for at least two years pursuant to a Residency Permit for a Set Period of Time. "Continuous Presence" is not interpreted literally here. A presence is continuous if none of the breaks in the presence exceed six months (per instance) and have not cumulatively exceeded 10 months over the entire period under consideration (i.e. two years in the case of a spouse of a Polish citizen). A break in continuity of presence may be longer and will not be the basis for refusal of a Settlement Permit if caused by:

- 1) professional obligations or employment outside Poland pursuant to a employment agreement with an employer whose registered office is located in Poland,
- 2) accompanying a spouse performing professional obligations or employment under terms described above,
- 3) medical treatment of the foreign national.

If a foreign national has received the first Residency Permit for a Set Period of Time and would like to immediately apply for a Settlement Permit, in order to

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meet the two-year presence requirement pursuant to the Residency Permit for a Set Period of Time and avoid an interruption in legal presence, he or she should:

- apply for a new Residency Permit for a Set Period of Time 45 days before the expiration of the first Residency Permit for a Set Period of Time (assuming it is granted for two years);
- apply for a Settlement Permit only after receiving the second Residency Permit for a Set Period of Time.

Otherwise, the condition requiring a presence of two full years will not have been met. Please note, the above does not apply to a foreign national present in Poland pursuant to a renewed Residency Permit for a Set Period of Time valid for a period longer than two years.

The following must be included in an application by a foreign national to the appropriate local voivodeship office:

- 1) **4** copies of the Settlement Permit application (applications are available in voivodeship offices and on the Internet page of the *Mazowiecki Urząd Wojewódzki* [Mazovian Voivodeship Office] – [www.mazowieckie.pl](http://www.mazowieckie.pl));
- 2) **4** color photographs size 4.5cm x 3.5cm, undamaged, in focus, showing the individual without any covering or colored/tinted glasses, showing the left half profile, with left ear visible and even lighting of the face<sup>9</sup> (add a fifth photograph to speed up the processing);
- 3) A valid travel document (two photocopies and original for review and return);
- 4) Proof of payment of the application fee – 640 zł;
- 5) Proof of temporary residency registration (See point 11 of this section);
- 6) Documents proving continuous presence in Poland;
- 7) Proof of good standing with the Treasury Office (i.e. no tax arrearages);
- 8) In the case of marriage to a Polish national – a copy of a valid marriage certificate and a photocopy of the spouse's personal identification card;
- 9) In cases where the applicant is the minor child of a foreign national where the foreign national has a settlement permit, where the minor was born on the territory of the Republic of Poland – a current copy of the birth certificate and a copy of the decision granting the Settlement Permit or Resident Alien Card of the legal guardian.

In cases involving marriage to a Polish citizen, authorities investigate if the marriage is not fraudulent (see point 7 of this section).

Settlement Permits do not expire (they are granted for an unlimited period of time). The *Karta Pobytowa* (Resident Alien Card) is valid for 10 years. Foreign

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<sup>9</sup> This is a standard photograph for identification documents in Poland. To get the correct photograph, simply ask the photographer for a picture for a personal identification document (i.e. dowód osobisty).

nationals are granted procedural visas for the duration of the Settlement Permit proceeding. A denied Settlement Permit application may be appealed (see point 9 of this section).

### 13.2. How to obtain a Long-Term Residency of a European Community Citizen permit

Permits for Long-Term Residency of a European Community Citizen are granted to foreign nationals present in Poland legally and continuously for a period of five years directly prior to submitting the application; the foreign national must also possess:

- 1) a stable and regular source of income sufficient to cover living expenses of the foreign national and his or her dependent family members,
- 2) health insurance pursuant to universal healthcare coverage regulations or proof that an insurer will cover healthcare costs in Poland.

A foreign national may apply for a Long-Term Residency of a European Community Citizen during **legal presence in Poland**. An application made by an individual present in Poland illegally or from outside Poland will **not be reviewed**.

A Long-Term Residency of a European Community Citizen application form must be submitted to the local voivodeship office for the foreign national's place of residence (the form is available from voivodeship offices and also at [www.mazowieckie.pl](http://www.mazowieckie.pl)). The proceeding involves a fairly thorough investigation to assure that the source of income is sufficiently stable and regular. The income per dependent family member, less living expenses, must be more than the income level at which social assistance payment are awarded, i.e. 351 zł<sup>10</sup> (if the foreign national has no dependents in Poland, this amount will be 477 zł). As to living expenses, it is accepted that they include at least the cost of fixed lease or loan costs for housing (split into the number of inhabitants) plus utility costs (electrical power, gas, water, sewage, garbage collection bills).

To determine if the foreign national's stay in Poland was continuous for five years, the same test is used as for the Settlement Permit.

Note the following individuals are not included in the calculation of the five-year period:

- those detained and/or held/housed in a guarded center, arrest pending deportation, or subject to prohibition to leave the country or deprived of freedom pursuant to decisions based on legal acts,
- present in Poland as an "au pair" and/or seasonal employee delegated by a service provider,

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- present in Poland for the purpose of providing transborder services, or those who provide transborder services;
- present in Poland pursuant to: a uniform stay visa entitling entry into Poland solely for humanitarian reasons, state interest or international obligations; visa issued for the purpose of beginning or continuing education; a Residency Permit for a Set Period of Time granted on the basis of family kinship to a foreign national as well as that granted because of enrollment in education other than regular daytime higher education studies.

However, only half of the residency period is counted for a foreign national present in Poland pursuant to a visa/Residency Permit for a Set Period of Time issued for the purpose of enrollment in regular daytime university studies or professional training. The complete residency period counts toward the aforementioned five-year period for stays pursuant to other visas and permits.

A foreign national seeking a Long-Term Residency of a European Community Citizen permit must file the following documents:

- 1) **4** copies of the Long-Term Residency of a European Community Citizen application (applications are available in voivodeship offices and on the Internet page of the *Mazowiecki Urząd Wojewódzki* [Mazovian Voivodeship Office] – [www.mazowieckie.pl](http://www.mazowieckie.pl));
- 2) **4** color photographs size 4.5cm x 3.5cm, undamaged, in focus, showing the individual without any covering or colored/tinted glasses, showing the left half profile, with left ear visible and even lighting of the face<sup>11</sup> (add a fifth photograph to speed up processing);
- 3) A valid travel document (two photocopies and original for review and return);
- 4) Proof of payment of the application fee – 640 zł;
- 5) Proof of Temporary Residency Registration (See point 11 of this section);
- 6) Documents confirming the required continuous residency in Poland;
- 7) Documents proving a stable and regular source of income sufficient to cover living expenses of the foreign national and his or her dependent family members;
- 8) Documents proving valid health insurance, legal title to hold the intended or current place of residence (legal title to the address where he or she is living – e.g. lease agreement, but not agreement to use premises, unless the party permitting the use is immediate family);
- 9) Documents proving housing expenses.

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11 This is a standard photograph for identification documents in Poland. To get the correct photograph, simply ask the photographer for a picture for a personal identification document (i.e. “*dowód osobisty*”).

Long-Term Residency of a European Community Citizen permits do not expire (they are granted for an unlimited period of time). *Karty pobytu* (Resident Alien Cards) are valid for 5 years. Foreign nationals are granted procedural visas for the duration of the proceeding. A denied application may be appealed (see point 9 of this section).

## 14. What is a *karta pobytu* (Resident Alien Card) and when is it issued?

A valid (e.g. not expired) *karta pobytu* (Resident Alien Card) confirms the identity of a foreign national during his or her presence in Poland and entitles one, when used with a travel document, to multiple entries into Poland without the need for a visa. Failure to possess a Resident Alien Card means the foreign national has no document to confirm his or her identity or manner to prove their legal presence in Poland pursuant to a granted permit.

A Resident Alien Card is issued to a foreign national who has received:

- 1) Residency Permit for a Set Period of Time – the card is valid as long as that permit is valid,
- 2) Settlement Permit – the card is valid 10 years,
- 3) Long-Term Residency of a European Community Citizen – the card is valid 5 years.

A foreign national must apply for a new Resident Alien Card in the event of:

- 1) A change in the information displayed on the card,
- 2) A change in appearance that makes identification difficult,
- 3) Damage to the card of an extent that makes use difficult,
- 4) Expiration of a Resident Alien Card issued pursuant to an obtained Settlement Permit or Long-Term Residency of a European Community Citizen,
- 5) Loss or destruction of the card.

A Resident Alien Card is issued by a voivodeship office that issued the relevant permit. Changes to cards are made by the local voivodeship office for the foreign national's place of residence at the time of the change. An application for change of the Resident Alien Card is made on an appropriate form; include two photographs and the decision granting the relevant permit for presence in Poland.

Fees for issue and change of a Resident Alien Card:

50 zł – for issuance and change,

100 zł – for change due to loss or destruction for which the holder was at fault,

200 zł – for change due to each successive loss or destruction for which the holder was at fault.

The following foreign nationals are entitled to a 50% discount in the fees:

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- 1) those in a difficult financial situation,
- 2) those whose purpose of stay is to study in schools above the *gimnazjum* level (i.e. over grades 7–9), at the university level, or take part in trainings and professional internships in Poland implemented as part of European Union programs in Poland,
- 3) minors up to 16 years of age (on the date of submitting the application).

## 15. Is it legal to travel within the Schengen Zone using a Polish residency permit?

A foreign national holding a Residency Permit for a Set Period of Time, a Settlement Permit or Long-Term Residency of a European Community Citizen issued in Poland, may travel and reside within the Schengen Zone **without a Schengen visa** for up to three months within a six month period if other conditions for entry and residency within the Schengen Zone have been met. These conditions are as follows:

- The foreign national holds a valid travel document,
- He or she can justify the purpose and terms of the planned stay and possesses sufficient means for living expenses or ability to obtain such legally,
- He or she is not deemed a threat to public order, internal security, public health or international relations of any of the member states,
- He or she has not been recorded in any national database of a member state as having been refused entry.

He or she must also possess a Resident Alien Card.

*Ewa Ostaszewska*

## Section V. Employment

### 1. Employment (work) permits

Foreign nationals entering Poland from outside the European Union and wishing to work must obtain an appropriate permit. However, Polish law provides for a series of exceptions from this rule. These exceptions are divided into two groups. The first group includes exceptions from the duty to apply for an employment permit related to the foreign national's status in Poland (e.g. he or she has received Residency of a European Community Citizen). The second group includes exceptions created by other regulations. Notably, Poland has begun to gradually open its labor market to citizens of neighboring states (Ukraine, Russia, Belarus) and Moldova. Foreign nationals from these states may work in Poland for certain periods without permits (see point 1.2. of this section).

NOTE: the rules for employing foreign nationals change relatively quickly – this especially concerns regulations set forth in regulations. Please check if a given regulation still applies. This information is available, among other places, on the Internet page of the Ministry of Labor and Social Policy.

#### 1.1. Who does not need an employment permit to work in Poland?

Some of the people who do not need employment permits to work in Poland:

- 1) Citizens of European Union member states and members of their families,
- 2) Citizens of European Economic Area states and Switzerland and members of their families,
- 3) Individuals with Polish Settlement Permits,
- 4) Individuals with Long-Term Residency in Poland of a European Community Citizen Permits,
- 5) Individuals granted Long-Term Residency of a European Community Citizen Permit in another state, who are obtaining a Residency Permit for a Set Period of Time (e.g. in connection with the intent to work or conduct economic activity/business),

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- 6) Individuals holding a valid *Karta Polaka* (Polish National Card),
- 7) Individuals allowed to work without employment permits pursuant to international agreements or separate laws.

In addition, pursuant to separate laws<sup>12</sup>, the following also do not need to obtain employment permits:

- 1) Citizens of Turkey after three years of legal employment in Poland in the same profession and under the condition that employment services have recorded the offer for work, or after four years of employment in Poland – without any limitations,
- 2) Foreign language teachers employed within education system facilities,
- 3) Graduates of Polish upper secondary/high schools (i.e. Polish schools above grade 9)
- 4) Participants of cultural/educational exchanges,
- 5) Citizens of states neighboring Poland and states with which Poland cooperates with respect to economic migration, who hold a written statement by an employer of the intent to employ the foreign national, registered at the *Powiatowy Urząd Pracy* (PUP) [Poviate Labor Office] – up to six months over 12 a month period.
- 6) Citizens of states that have concluded agreements on the freedom of movement for workers of the European Community.

NOTE: the above is a listing of **only** the most common reasons foreign nationals do not need employment permits. A detailed list of situations where foreign nationals are exempt from needing employment permits is contained in the Law on Promoting Employment and Labor Market Institutions dated 20 April 2004 and appropriate regulations of the Minister of Labor and Social Policy<sup>13</sup>. Voivodship offices provide more information if there is doubt as to whether a specific individual needs an employment permit.

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12 Regulation of the Ministry of Labor and Social Policy dated 2.02.2009 on employment of foreign nationals without the need to obtain employment permits, Decision No. 1/80 European Economic Community Council – Turkey, 19 September 1980.

13 Compare laws listed in the bibliography.

## 1.2. Eased employment restrictions for citizens of Belarus, Ukraine, Russia and Moldova

Poland has started to gradually open its labor market to foreign nationals from neighboring states. Regulations introduced in February 2009 allow citizens of Russia, Ukraine, Belarus, and Moldova to work in Poland without an employment permit for six months over a 12 month period. An employer in Poland must first register to employ a foreign national on these terms. The employer must submit a statement (along with a photocopy) at a local *Powiatowy Urząd Pracy* (Poviate Labor Office) appropriate for the employer's registered seat or place of residence. Next, the employer provides the registration form to the future employee. The proceeding is free of charge and requires only one visit to the office. A foreign national with such documents may apply for a visa at a Polish consular office. The employer's statement form is available, e.g. on the Internet page of the *Wojewódzki Urząd Pracy w Warszawie* (Warsaw Voivodeship Labor Office) at [www.wup.mazowsze.pl](http://www.wup.mazowsze.pl).

NOTE: the above legal regulations are of a pilot nature. At the time of writing, they were to expire at the end of 2010 – check their validity if deciding to use this form of employment permit.

## 1.3. Types of employment permits

There are five types of employment permits, categorized by type of employer:  
**Type A** – a foreign national performing work in Poland based on an agreement with an employer whose registered address or place of residence is located in Poland;

**Type B** – a foreign national who has been present in Poland for a total of more than six months over a period of 12 successive months and holds a position on a company or limited liability company management board an organization that is recorded by the register of entrepreneurs;

**Type C** – a foreign national employed by a foreign employer and delegated to Poland for a period exceeding 30 days during a calendar year;

**Type D** – a foreign national employed by a foreign employer that does not have a branch, plant or other form of organized activity in Poland and that employee is delegated to Poland to execute services that are temporary or performed from time to time (services export);

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**Type E** – a foreign national employed by a foreign employer, where the foreign national is delegated to Poland for more than three months over a period of six successive months for purposes other than those indicated in permits B-D.

### 2. How to get an employment permit: procedure

#### 2.1. Who applies for an employment permit?

Employment permits are issued for a specific (named) foreign national. It is the future employer that is responsible for submitting the employment permit application and all required documents to the *Wojewódzki Urząd Pracy* (Voivodeship Labor Office), or its branch office). An employer may apply in person, through an agent or by mail. Employment permit applications are available at labor office headquarters or through their Internet pages. After receiving an employment permit, an employer must sign an appropriate contract with the foreign national.

#### 2.2. Who issues employment permits?

In principle, employment permits are issued by a voivode, but quite frequently this task is performed by the *Wojewódzki Urząd Pracy* (Voivodeship Labor Office) and then the application is submitted to that office or its branches. Depending on the employment permit type, submit the application to the following:

- 1) permits type A or B – apply at the local labor office for the employer's registered seat or place of residence;
- 2) permit type C – apply to the local Voivodeship Labor Office for the employer's registered seat to which the foreign national is delegated;
- 3) permit type D – apply to the local Voivodeship Labor Office for the main location of where the work will be performed by the foreign national in Poland;
- 4) permit type E – apply to the appropriate Voivodeship Labor Office for the main location where the work will be performed by the foreign national in Poland.

In the event of a change of location or address of the registered seat of the place of employment, an application for extension is submitted to that voivode, which would be appropriate at the time of the filing of the application. In the event the specifics of the work performed by the foreign national make it impossible to indicate the main location the work being performed, the permit application should be filed with the *Wojewoda Mazowiecki* (Mazovian Voivode) at the *Wojewódzki Urząd Pracy w Warszawie* (Warsaw Voivodeship Labor Office).

### 2.3. What conditions do you have to meet to get a type A employment permit?

The following conditions must be met to receive a type A employment permit:

- 1) The wages described in the contract with a foreign national may not be lower than the wages of employees performing comparable work or holding comparable positions;
- 2) It is impossible for the employer to employ an individual registered as unemployed and seeking work in the same position; the *starosta* (administrative post) provides information to the voivode in this regard.

The *starosta* prepares this information based on a register of the unemployed and recruitment conducted especially for an employer applying for work for a foreign national (if the analysis of the unemployed register indicates it is not possible to conduct such recruitment, it is, of course, not performed). In the former case, the procedure takes no more than seven days. If recruitment is conducted, it takes no longer than 14 days from the posting of the offer to the unemployed and seeking work.

Information from the *starosta* is not needed if:

- 1) In the three-year period preceding the filing of the employment permit application, the foreign national completed a school or institution of higher learning with a registered seat in Poland, Switzerland or other state of the European Economic Area (EEA),
- 2) The foreign national was legally present in Poland for a three-year period preceding the filing of the employment permit application (excepting if the foreign national was detained, placed in a guarded facility, arrest for the purpose of deportation, subject to preventive measures in the form of prohibition to leave Poland or deprived of freedom pursuant to execution of verdicts issued pursuant to statutes),
- 3) The foreign national is a family member of an employee of a diplomatic service, consular office, international organization or office thereof performing work in the Republic of Poland pursuant to international agreements and arrangements,
- 4) The foreign national is performing private domestic service employment for employees of diplomatic services, consular offices, international organizations or offices thereof,
- 5) The fashion in which the foreign national is to perform employment or type of work that is to be entrusted thereto are found in the list of professions and types of employment with respect to which issuance of an employment permit does not require information from the *starosta* (these professions are defined by the voivode based on an analysis of the local labor market),

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- 6) The foreign national is authorized to represent a foreign entrepreneur in his or her representative office located in Poland,
- 7) The foreign national is a citizen of a state bordering Poland or a state with which Poland cooperates with respect to economic migration as part of a partnership on behalf of mobility of workers established between said state and the European Union, who performs nursing/care duties or as domestic assistance on behalf of individuals in a household,
- 8) The foreign national is a citizen of a state bordering Poland or a state with which Poland cooperates with respect to economic migration as part of a partnership on behalf of mobility of workers established between said state and the European Union, who, in the period directly preceding submission of the application, performed (for a minimum of three months) employment for the same employer pursuant to a statement of intent to employ the foreign national (compare point 1.2. of this section),
- 9) The foreign national is an athletic coach or athlete performing employment for sport clubs and other entities whose statutory activity includes propagation of physical culture and sport,
- 10) The foreign national is a physician or dentist undergoing education or studying in a specialization program,
- 11) An extension for an employment permit is being issued for the same foreign national in the same position,
- 12) The lack of such requirement results from separate regulations.

### 2.4. What conditions have to be met for a type B employment permit?

The following conditions must be met by the foreign national for the voivode to issue a type B employment permit:

- 1) in the tax year preceding the submission of the application, the foreign national earned income of at least 12 times the average monthly wage for the voivodeship in the third quarter of the year preceding the submission of the application, and employs at least two employees who do not require employment permits pursuant to a contract for an unlimited period of time with full-time hours for at least one year preceding the submission of the application,
- or
- 2) is able to prove means or performance of activities enabling execution of terms described in point 1) in the future, in particular, by conducting activity that contributes to increased investment, transfer of technology, introduction of beneficial innovations or creation of jobs.

NOTE: In cases justified by the labor market situation, the voivode may limit in the employment permit the scope of tasks performed by the foreign national to management and representation activities.

## 2.5. What conditions have to be met for type C-E employment permits?

The voivode issues type C-E employment permits if:

- 1) the terms of employment are no less favorable than those arising under the Labor Code and other regulations controlling employee rights and obligations,
- 2) the wages payable to the foreign national for work performed will not be more than 30% lower than the average monthly wages in the given voivodeship,
- 3) the foreign employer has appointed an individual present in Poland with documents confirming execution of duties described in points 1) and 2) who is authorized to represent the employer before the voivode if the term of the foreign national's delegation exceeds 30 days during a calendar year.

If an application for an employment permit for a foreign national is made for less than full-time or pursuant to a civil contract (*umowa zlecenia* [mandate/commission contract], *umowa o dzieło* [contract to perform a specific task]), the voivode will consider the wage amount that is defined in the contract with the foreign national proportionally to the working hours or expected period of performance of obligations arising under the contract.

## 2.6. How long are employment permits valid?

Employment permits are issued for set periods of time, no longer than three years, and may be extended. In the event a foreign national holds a position on the board of an organization, which, as of the date of the application, employs more than 25 persons, a voivode may issue an employment permit for a period no longer than five years. If a foreign national is delegated by the foreign employer for the purpose of performing service export, the voivode issues the employment permit for the duration of the delegation.

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### 2.7. When does an application for an employment permit or an employment permit extension need to be made?

An employer employing a foreign national must apply for an employment permit no fewer than 30 days prior to the planned date of employment or, in the case of extension, 30 days prior to the expiration of the original permit.

### 2.8. What documents are needed to get an employment permit?

The documents that need to be filed with an employment permit application differ depending on the permit type.

When applying for an employment permit **you always need to file:**

- 1) An application for an employment permit for a foreign national (\*),
- 2) A photocopy of the relevant foreign national's travel document (copy the pages with personal information),
- 3) Photocopies of documents confirming that the foreign national meets requirements to perform a given profession (this is required only if performance of the given profession or position requires a concession or certificates, e.g. such as legal or medical professional associations),
- 4) Photocopies of documents confirming the foreign national meets terms described in point 2.3. of this Section,
- 5) Photocopy of proof of payment for an employment permit (fee amounts – see: 2.11),
- 6) Documents confirming requirements of separate regulations have been met, which are required for the application to be reviewed,
- 7) An appendix to the application for an employment permit for foreign national concerning the company's PKD<sup>14</sup> (Polish Classification of Economic Activity) and headcount (\*).

If the employer is not submitting the application in person or through an agent, it must also enclose the original document granting agency (power of attorney).

Additionally:

- **Applications for type A** employment permits must also include:
  - 1) A current copy of an excerpt from the National Court Register or appropriate confirming register or economic activity rolls (if the party employing the foreign national is an organization, an unincorporated organizational unit or entity conducting economic activity),or

- 2) A photocopy of a personal identification card or a photocopy of the pages with information of a travel document (if the party employing the foreign national is an individual),  
or
  - 3) Company Articles of Association (if it is a limited liability company) or copies of notary deeds establishing the company (if it is a joint stock company),
  - 4) Information from the starosta (see point 2.3. of this section);
- **Applications for type B** employment permits must also include:
    - 1) A current copy of an excerpt from the National Court Register or appropriate confirming register or economic activity rolls (if the party employing the foreign national is an organization, an unincorporated organizational unit or entity conducting economic activity),  
or
    - 2) Company Articles of Association (if the employer is a limited liability company) or copies of notary deeds establishing the company (if it is a joint stock company),
    - 3) Copies of a tax return stating earned income (or loss) incurred by the entity employing the foreign national in the tax year preceding submission of the application and information showing the headcount in the year preceding submission of the application or information showing assets held or activities conducted enabling performance of terms listed in point 2.4. 2) of this section,
    - 4) Information showing the headcount in the entity employing the foreign national (\*);
  - **Applications for type C** employment permits must also include:
    - 1) A document from the appropriate register confirming the legal status and form or character of the activity conducted by the foreign employer,
    - 2) A current copy of an excerpt from the National Court Register or other appropriate confirming register or excerpt from economic activity rolls (concerning the branch or plant of the foreign entity, its subsidiary or entity bound by a long-term cooperation agreement with the foreign employer),
    - 3) Letter of delegation,
    - 4) A copy of a long-term cooperation agreement between the entity and foreign employer;
  - **Applications for type D** employment permits must also include:
    - 1) A document from the appropriate register confirming the legal status and former character of the activity conducted by the foreign employer,

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- 2) A copy of the contract pursuant to which the service is provided in Poland or the portion of that contract that describes the subject of the foreign employer's obligations; if such contract has not yet been concluded, you must append signed statements describing the scope of such contract (in such case, copies of the relevant contract portion will be provided by the foreign employer immediately after the contract is concluded),
  - 3) Letter of delegation,
  - 4) List of foreign nationals that will perform the given service export;
- **Applications for type E** employment permits must also include:
    - 1) A document from the appropriate register confirming the legal status and form or character of activity conducted by the foreign employer.

IMPORTANT! Information marked with the asterisk (\*) must be presented on the appropriate forms, which may be downloaded from, e.g. the Internet page of the *Wojewódzki Urząd Pracy* (Voivodeship Labor Office) in Warsaw at <http://wup.mazowsze.pl/new/?phtml=1333075390>.

### 2.9. What documents are needed to extend an employment permit?

Applications to extend an employment permit must include:

- 1) documents, if circumstances covered by the contents of documents enclosed with the employment permit application have changed,
- 2) a copy of proof of payment for an employment permit extension.

### 2.10. What form is an employment permit issued in?

An employment permit is issued in three identical copies. One copy remains with the voivode, the employer receives two copies and provides one copy to the foreign national.

### 2.11. How much does it cost to receive an employment permit?

The employer pays a one-time fee for issuance of an employment permit, in the amount of:

- 50 zł – for employment of less than three months;
- 100 zł – for employment of a foreign national to exceed three months;

200 zł – for delegation to Poland of a foreign national to perform service export<sup>15</sup>.

The employer or entity pays half the relevant amounts listed above for foreign national employment permit extensions.

## 2.12. How long will it take to receive an employment permit for a foreign national?

Applications to employ foreign nationals in Poland submitted with all required documents are reviewed pursuant to the Code of Administrative Procedure without undue delay, not longer than one month and, in particularly complex cases – up to two months from the date proceedings are initiated. The administrative body may extend a proceeding; a party must then be notified of each extension by the administrative body before which proceedings are ongoing.

## 3. Refusal to issue an employment permit

### 3.1. When will the voivode refuse to issue an employment permit?

There are circumstances where a voivode will refuse to issue an employment permit for a foreign national. Some concern the employer applying for the employment permit for a foreign national. The most important of these circumstances include:

- 1) Failure to meet requirements necessary to receive the permit (see points: 2.3., 2.4., and 2.5.),
- 2) Providing false information during the proceeding, presenting false personal information, documents, or evidence,
- 3) Prior commission of a misdemeanor related to employing a foreign national (e.g. causing a foreign national to illegally perform employment, requesting compensation for acts intended to lead to obtaining of a document permitting employment, coercing another individual to illegally employ a foreign national),

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15 Regulation of the Minister of Labour and Social Policy regarding fee levels for submitting applications for foreign national work permits dated 17 October 2007 (Dz.U. [*Journal of Laws*] No. 195, pos. 1409)

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- 4) As a penalty to an employer for malicious or persistent violations of employee rights that arise under the employment relationship or social insurance, failure to report required information or reporting false information that impacts the right to or levels of benefits, subjecting the employee to direct threat of death or serious bodily injury, failure to timely notify the appropriate official body of an occupational accident or occupational illness.
- 5) As a penalty to an employer for trafficking in humans.

Additionally, employment permits will not be provided to an employer seeking a permit for an individual that does not meet the qualification requirements in a regulated profession or was judged in violation for misdemeanors/felonies related to employment permit proceedings.

The voivode will also deny the employment permit application if the information concerning the individual to whom the application related have been recorded in the register of foreign nationals whose presence in Poland is undesired (*persona non grata*).

### 3.2. Can a refusal to issue an employment permit be appealed?

The voivode's decision can be appealed to the Minister of Labor and Social Policy through the office of the voivode that refused the employment permit. An appeal must be filed within 14 days from the delivery of the decision. The appeal must state that the individual does not agree with the refusal to issue a permit and explain the basis for the objection.

## 4. When can a voivode revoke an employment permit?

A voivode will revoke a previously issued permit if:

- 1) circumstances or evidence concerning the issued decision have changed,
- 2) the reason for which the employment permit was issued has ceased to exist,
- 3) a foreign national has not begun employment or completed it,
- 4) the employer failed to fulfill its obligations,
- 5) if another body, which, pursuant to separate regulations, issued consent for the holding of a given position, performance of a profession or conducting other activity by the foreign national, rescinds said consent,
- 6) the foreign national suspended performance of employment for a period exceeding three months,
- 7) it receives information that the foreign national has been recorded in the register of foreign nationals whose presence in Poland is undesired (*persona non-grata*).

*Karolina Rusiłowicz*

## Section VI. Taxes

### 1. What taxes are paid in Poland?

Poland has two types of taxes: direct and indirect.  
Taxes are categorized as follows:

- 1) direct:
  - individual income tax,
  - corporate income tax,
  - inheritance and gift tax,
  - tax on civil and legal acts,
  - agricultural tax,
  - forestry tax,
  - real property tax,
  - vehicle tax;
- 2) indirect:
  - tax on goods and services – Value Added Tax (VAT),
  - excise tax,
  - gaming tax.

A direct tax is paid directly to tax authorities, though its level depends on the taxpayer's situation. Meanwhile, indirect taxes are paid at the purchase of a good or service (VAT is included in the price of most goods).

Due to the limited space available here the section on taxes will be devoted to the personal income tax.

### 2. *Numer Identyfikacji Podatkowej* (NIP) [Tax Identification Number] – what is it and how to get one

The NIP (Tax Identification Number) is a unique number for tax identification purposes, which every taxpayer must have irrespective of whether the taxpayer is an individual, corporation, or other organization. This number is required in many situations, but especially in the course of all tax settlements.

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The appropriate local *Urząd Skarbowy* (Treasury Office) assigns a NIP (Tax Identification Number) after receiving **an application**. The head of the treasury office issues a decision to assign a Tax Identification Number. To submit an application, use the form available at the treasury office or on the Internet page of Ministry of Finance at [www.mf.gov.pl](http://www.mf.gov.pl). You need to apply only once, irrespective of the type and number of taxes paid by the taxpayer, form of taxation, number and kind of economic activity conducted or the number of businesses you have. As such, each taxpayer will have only one NIP (Tax Identification Number). If information listed in the application changes (e.g. change of address, bank account, surname, etc.) a taxpayer must notify the office of those changes using appropriate NIP forms available at the treasury office and on the Internet page of the Ministry of Finance at [www.mf.gov.pl](http://www.mf.gov.pl).

The application procedure differs depending on the taxpayer and tax<sup>16</sup>. Individuals subject to the personal income tax apply directly (meaning they personally submit the form to the Treasury Office) or through a payer (i.e. an employer who will deduct payroll taxes). Such an application to register only needs to be made with the first employer. All subsequent employers or clients will only require the taxpayer's NIP (Tax Identification Number).

Taxpayers registering economic activity must make the registration applications in person. Individuals setting up a business may submit a registration application or information update form along with the application for registration into the register of economic activity.

### 3. Who pays the personal income tax? What is taxed?

**All individuals who have earned income** must pay income tax. Exceptions to this rule include earnings exempted from taxation and earnings on which taxation has been omitted. Spouses may apply for joint taxation of their earnings. This may mean married couples pay lower taxes, especially if there is a big difference in their earnings (or only one of them is employed).

All earnings of individuals with tax residency in Poland are subject to taxation. The location of the source of the earnings does not matter, it is still subject to taxation in Poland. It is important to know whether the foreign national's country of origin requires "double taxation". An individual has tax residency in Poland if the center of his or her interests is located here and he or she spends more than

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16 The Act dated 13 October 1995 on procedures for reporting and identification of taxpayers and payers (Dz. U. [Journal of Laws] from 2004, No 269, pos. 2681, as later amended)

183 days per tax year in Poland. Individuals without tax residency in Poland are subject only to taxation of income earned in Poland (limited tax obligation).

#### 4. What is subject to personal income taxation?

Generally, all earned income is subject to taxation, though regulations exempt certain kinds of earned income.

A more precise definition of earned income in Poland is income from:

- 1) Employment performed in Poland pursuant to a service relationship, an employment relationship, home-based work or co-operative employment relationship, irrespective of the location of the payment of remuneration (wages),
- 2) Activity performed in person in Poland, irrespective of the location of the payment of remuneration,
- 3) Economic activity (e.g. business) conducted in Poland,
- 4) Real property located in Poland, including on the sale of such property.

Note that earned income is the amount that remains from earnings, less total deductible expenses achieved in a given tax year.

If the taxpayer earns income from more than one source, the **total of all income sources** will be subject to taxation in a given tax year.

Examples of income sources:

- Employment, retirement payments,
- Activity performed personally,
- Non-farming economic activity,
- Lease, sublease, rental, sub-rental or other contracts of a similar nature,
- Financial capital and property rights,
- Sale of e.g. real property, portions thereof, or shares in real property.

#### 5. Calculating personal income tax

The personal income tax calculation depends on the source of the income.

Income from paid employment, retirement payments, or business activity is taxed on a progressive tax scale. For example, under the tax scale for year 2009, if the taxable income is less than 85 528 zł, the tax is 18% of the total income less the automatic deduction of 556.02 zł. If the taxable income exceeds 85 528 zł, the tax will be 14 839.02 zł plus 32% of the amount exceeding 85 528 zł.

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TAXABLE INCOME IN ZLOTY		TAX DUE
FROM	TO	
0	85 528	<b>18%</b> less automatic tax deduction of <b>556.02 zł</b>
85 528	and up	<b>14 839.02 zł + 32%</b> of the amount exceeding <b>85 528 zł</b>

There are various ways of paying personal income tax. Most often, personal income tax is deducted over the course of the tax year by a **payer (e.g. employer)** in the form of **prepayments** (e.g. on wages from employment) or **lump-sum tax**.

Personal income tax may also be paid during the tax year directly **by the taxpayer** in the form of prepayments. This is done by individuals with small businesses (i.e. non-farming economic activity). In this case, a taxpayer pays prepayments from January through November on the 20th day of each month for the preceding month to the bank account of the appropriate local treasury office for the taxpayer's residence address.

At the end of the tax year, by **30 April** of the following year, all personal income taxpayers must file **tax statements indicating the income earned** (or loss generated) in a given tax year. Therefore, the 2009 tax statement must be filed by 30 April 2010.

A tax statement is filed on the PIT form (Personal Income Tax, see point 6 of this section), which is then verified by the treasury office. The tax settlement must calculate the prepayments made. If the sum of all prepayments is lower than the tax amount due, the taxpayer must pay the difference by e.g. making a transfer to his or her treasury office account. However, if the sum of all prepayments exceeds the tax due, the taxpayer will receive a tax refund. The treasury office refunds money to taxpayers within three months from the submission of the tax statement (the money will be transferred into the account listed by the taxpayer in his or her NIP form; in the event no account is listed, cash will be sent to the taxpayer's residential address via Polish Post). The Polish tax code provides for tax breaks. These include various exemptions, deductions, discounts or rebates that lower taxable income or tax levels. Examples of such discounts include a tax deduction for children or the Internet. Donations, e.g. to churches and denominational units or public service organizations may also be deducted from taxable income. Tax break levels and kinds vary and each taxpayer must check what tax breaks are available in a given year. Taxpayers subject to the progressive tax scale may take advantage of joint filing for spouses and preferential taxation of income for single-parent households.

## 6. What is a PIT form?

The PIT form, or Personal Income Tax form, is used to file tax return statements. There are the following PIT forms: PIT-36, PIT-36L, PIT-37, PIT-38, and PIT-39.

The most commonly used PIT form is PIT-37. Taxpayers who **jointly** meet all of the following conditions should use this form:

- 1) Earned income solely through a payer (e.g. employer),
- 2) Earned income from sources located in Poland, subject to taxation on general principles using the tax scale, in particular from remuneration (wages) and other income from a service relationship, **employment relationship** (including a cooperative relationship), and also *umowy zlecenia* [mandate/commission contracts], performance of social obligations, sports activity,
- 3) Did not perform non-farming economic activity or specialized sections of agricultural production taxed on general principles using the tax scale,
- 4) Are not obligated to calculate minor children into earned income,
- 5) Do not lower income by losses from preceding years.

If the taxpayer has earned at least one type of income that does not fit into the PIT-37 categories, all income taxed according to the tax scale should be then reported on the PIT-36 form (in that case, do not submit PIT-37).

**A tax return on the PIT-36** form must be used by taxpayers who earned income taxed on general principles using the tax scale and do not use PIT-37 because their earned income (or loss) does not comport with the requirements of this tax return form. **PIT-36 is to be primarily used by taxpayers, who:**

- conducted non-farming economic activity or special agricultural production taxed according to the tax scale,
- earned income from lease, sublease, rental, sub-rental or other contracts of a similar nature,
- earned income from abroad.

## 7. Who must submit a tax return?

All taxpayers who earned any income during the tax year must submit an annual PIT tax return form, even if the ultimate result was a loss or exactly zero earnings. Taxpayers conducting economic activity must also submit a PIT tax return form, even if they earned no income or profits, but their economic activity was formally suspended for the entire year.

Only taxpayers who earned no income or profit (earned nothing at all), had no economic activity registered with the treasury office, and taxpayers that earned

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income only in a foreign state exempt from taxation in Poland are exempt from submitting a tax return. For some types of taxpayers, their payers will submit their annual tax returns, e.g. an employer for their employee at his or her request, or a pension office such as ZUS (Social Insurance Office) if the taxpayer does not file one him or herself.

An obligation to submit a tax return form applies to individuals with tax residency in Poland (Polish tax residents), as well as those without residency in Poland (alien tax residents). It is the earning of income (or generating a loss) subject to taxation in Poland pursuant to international agreements and the Polish tax code that is determinative.

### 8. When and how do I submit a tax return?

Tax returns must be filed by:

- **30 April for** PIT-36, PIT-36L, PIT-37, PIT-38, or
- **31 January** for PIT-28.

Individuals with residency abroad (alien tax residents), who:

- Earn income not through a payer (e.g. not through an employer)

or

- Earn income through a payer where the payer has no obligation to calculate their annual tax (such as e.g. an employer, pension office, ZUS [Social Insurance Office]),

or

- Earned capital income

must submit an annual tax return prior to leaving Poland. In such event, the deadline for filing a PIT-37 tax return form may occur much earlier than 30 April.

There are several ways to file a tax return:

- at the treasury office;
- by mail (via regular letter – the date of submission is then the date the letter was received by the treasury office, **by registered mail** – where the date of submission is the date the letter was posted at a Polish Post office);
- in a Polish consular office (with a handling fee of 18 euro);

NOTE: Registered mail from abroad is treated like regular domestic mail – it is the date of receipt that counts as the date of filing. In such case, the taxpayer assumes the risk of delay or loss. This is a **very uncertain** way to submit an annual tax return.

Some treasury offices place drop-boxes outside their locations the night before the tax return deadline. These drop-boxes are collected at midnight, i.e. on the filing deadline. Use this option only as a last resort – when the post offices have closed and the taxpayer would otherwise be subject to a fine for late filing. Also, if using this option, check several days later to make sure the treasury office received the tax return. It is even better to travel to a city or town where the post office remains open and post the tax return by registered mail.

It is now possible to file an e-PIT via the Internet by using an electronic signature. Also, the PIT-37 can be filed even without the electronic signature, by providing personal information such as NIP, PESEL, etc.

Filling out a tax return form can sometimes be difficult, especially when doing it for the first time or when you do not speak Polish. There are companies that provide the service for a fee, usually less than 100 zloty. If a specialist prepares your tax return, get his or her signature on your copy of the tax return in the event of liability for an erroneously filled out form. In addition, as tax season approaches, various newspapers include CDs with software for calculating taxes and filling out forms. Instructions on how to fill out a tax return are also available on the Ministry of Finance Internet page.

Note: Prior to submitting your tax return, please check it for obvious mistakes and then **keep a photocopy for your records**. Common mistakes include:

- calculation errors (adding, calculating tax);
- erroneous taxpayer information (which does not match the most recent NIP form [Personal Identification Number form]);
- missing NIP or missing taxpayer signature;
- differences in amounts reported in the current return and those in previous years (e.g. deductions or losses);
- deductions in excess of the allowable limit.

A treasury office may request explanations or additional information by a certain date and time by listing the basis for questioning reported information.

A treasury office may request explanation regarding the failure to submit a tax return or request such be filed if the declaration was not filed by the deadline.

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### 9. What happens if a taxpayer did not file a return by the deadline?

A taxpayer who failed to timely submit an annual tax return has two options:

- **Notify the treasury office of the failure to submit a tax return**, and submit all documents required to establish taxable income and tax due, as well as paying immediately or by a date set by the treasury office along with interest; in such case, the taxpayer is not subject to a fine, and must only pay interest for delay,
- **Submit the tax return after the deadline**, and in so doing commit a treasury misdemeanor, which usually carries a fine of several hundred Złoty, depending on the taxpayer's earnings and assets.

The first option will result in initiation of a tax proceeding and possibly a tax audit. The second option does not require an audit or tax proceeding, as the taxpayer has disclosed the earned income and tax due. The drawback to the second option is the penalty. The third option, if it can be called such, is to do nothing and wait until the treasury of office realizes the taxpayer has not filed a tax return. The treasury office will then levy a fine and issue a decision to initiate a tax proceeding to establish tax arrearsages.

A taxpayer who files a tax return and pays tax late will also have to pay interest for the delay. The fine levied for failure to timely pay tax may range from 1/10 to 20 times the level of minimum wage. For example, in 2009 minimum monthly wage was 1 276 zł. Therefore, a fine can range from 127.60 zł to 25,520 zł. However, a taxpayer who encloses a letter with their late tax return, this is which explains the reasons for the delay may avoid sanctions under the criminal tax code (referred to as the *"czynny żal"* i.e. "special operational request"). When submitting a tax return immediately after the deadline, e.g. 4 or 5 May, apply to the treasury office with a non-penalty request, by listing the extenuating circumstances that caused the late filing. Treasury offices frequently exempt taxpayers from penalties.

### 10. Calculating net earnings, i.e. take-home pay

The salary/wages offered by an employer to an employee are usually stated in gross amounts. In order to calculate the net amount, i.e. the amount of take-home pay, you must deduct social insurance premiums, deductions for pensions, sick leave, healthcare (see *Insurance* Section) and tax prepayments. For example, an office employee whose gross salary totals 3 000 PLN, will take home 2 156.72 PLN.

<b>Gross pay</b>	<b>3000</b>
Retirement insurance contribution	-292.80
Pension fund insurance contribution	-45.00
Sick leave insurance contribution	-73.50
Health insurance contribution	-232.98
Income tax (prepayment)	-199.00
<b>Net pay</b>	<b>2156.72</b>

Calculating premiums and contributions is rather complex and the relevant regulations change frequently. Salary calculators are available on the Internet to help calculate take-home pay (e.g. at [www.pracuj.pl](http://www.pracuj.pl) or [www.infor.pl](http://www.infor.pl)).

*Ewa Ostaszewska*

## Section VII. Insurance

### 1. Social insurance

#### 1.1. What are the kinds of social insurance in Poland?

Social insurance covers:

- 1) retirement insurance – future retirement benefits are paid from this insurance fund,
- 2) pension insurance – pensions, including family pensions, paid to family members after the death of an insured,
- 3) sick leave insurance – insurance in the event of illness and maternity leave, covers the costs of hospital stays,
- 4) accident insurance – insurance against occupational accidents and illnesses.

The Polish retirement insurance system consists of three pillars:

- Pillar I – *Zakład Ubezpieczeń Społecznych* (ZUS) (Social Insurance Office),
- Pillar II – *Otwarte Fundusze Emerytalne* (OFE) (Open Retirement Funds),
- Pillar III – *Indywidualne Konto Emerytalne* (Individual Retirement Account) and *Pracownicze Programy Emerytalne* (Employer Retirement Programs).

ZUS (Social Insurance Office) plays a fundamental role in the retirement system as, as part of Pillar I, it manages individual insurance accounts and pays out retirement benefits. Premiums for Pillars I and II are mandatory. Pillar III insurance coverage is voluntary.

#### 1.2. Who is covered by the mandatory retirement and pension insurance?

Individuals who are employees, perform employment pursuant to an *umowa agencyjna* [agency contract], *umowa zlecenia* [mandate/commission contract] or other contract to provide services in Poland are covered by mandatory retirement and pension insurance.

If an individual is employed by several employers, the employment relationship that began first is subject to the insurance mandate. However, he or she may

request for the other employment relationships (all or some) to be covered by retirement and pension deductions or change the basis of the coverage.

### 1.3. Who is covered by sick leave insurance?

All employed individuals are subject to mandatory sick leave insurance coverage. Sick leave insurance coverage is discretionary for individuals performing home based work, *umowa zlecenia* [mandate/commission contract], *umowa agencyjna* [agency contract] or other contract to provide services, individuals conducting non-farming business activity and individuals cooperating with them, clergy, incarcerated and temporarily arrested individuals (performing gainful employment).

### 1.4. Who is covered by accident insurance?

Individuals subject to mandatory retirement and pension insurance premiums are also covered by accident insurance. However, accident insurance does not cover individuals employed pursuant to an *umowa zlecenie* [mandate/commission contract] who perform employment outside the ordering party's registered seat or business location.

### 1.5. When is coverage for retirement, pension, sick leave, and accident insurance active?

Retirement, pension, sick leave, and accident insurance coverage is active for:

- 1) an employee – from the start to the end of the employment relationship;
- 2) individuals performing home-based work – i.e. the employee receives remuneration (pay) for work actually performed – from the date set in the contract as the start of employment through the termination or expiration of that contract.

### 1.6. Who pays the insurance premiums?

Retirement insurance premiums are paid in equal part by the insured (i.e. employees, hired workers, contractors) and premium payers (i.e. mainly employers).

Pension premiums are paid by the insureds (1.5% of the base benefit) and payers (4.5% of the base benefit). Sick leave premiums are paid in full by the insureds, while payers are responsible for paying accident insurance premiums.

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Payers calculate and deduct from wages the premiums for retirement, pension, accident, and sick leave insurance and transfer them in full to the *Zakład Ubezpieczeń Społecznych* (ZUS) (Social Insurance Office). Premiums are paid monthly, by the 15<sup>th</sup> day of each month. Payers also submit a monthly report of premiums paid, which is commonly referred to as the ZUS RMUA (SIO Monthly Report of Insured Individual). This document also contains information regarding the health insurance premium paid by the payer (see point 3 of this section).

It is usually the employer that transfers insurance premiums to ZUS (SIO), by transferring its portion of the premium and the premiums deducted from employee wages. Therefore, it is commonly said that the employer is the “payer” of premiums. However, the insured may also be the payer, if he or she is responsible for paying premiums for social insurance coverage (e.g. those with registered individual economic activity or who are insured at their own discretion).

### 1.7. Calculating a premium

Income is the basis for calculating the insurance premium amount. Premiums for retirement, pension and sick leave insurance are expressed as a percentage, which is the same for all insureds. The percentage for accident insurance premiums varies for particular payers and depends on the relevant occupational hazards and their effects.

The percentage rates are as follows:

- 1) 19.52% of the base – for retirement insurance (ZUS [SIO] transfers 7.3% of the base paid by the insured to an *Otwarty Fundusz Emerytalny* [Open Retirement Fund] selected by the insured),
- 2) 6.00% of the base – for pension insurance;
- 3) 2.45% of the base – for sick leave insurance;
- 4) from 0.40% to 8.12% of the base – for accident insurance.

Assuming gross monthly earnings of 3 000 zł, premiums paid by the employee and employer are as follows<sup>17</sup>:

Fund:	EMPLOYER		EMPLOYEE		TOTAL	
	%	zł	%	zł	%	zł
– retirement	9.76	292.8	9.76	292.8	19.52	585.6
– if participating in Pillar II:				Pillar I	12.22	366.6
				Pillar II	7.3	219
– pension	4.5	135	1.5	45	6	180
– sick leave	0	0	2.45	73.5	2.45	73.5
– accident	0.67	20.1	0	0	0.67	20.1
– unemployment	2.45	73.5	0	0	2.45	73.5
– FGSP (Guaranteed Employee Benefits Fund)	0.1	3	0	0	0.1	3
TOTAL:	17.48	524.4	13.71	411.3	31.19	935.7

NOTE: the above also includes premiums deducted by the employer to the unemployment fund and the Guaranteed Employee Benefits Fund, which are not social insurance funds.

### 1.8. Who registers an insured with ZUS (SIO) and how?

The premium payer must register an insured with the Social Insurance Office within seven days from the insured beginning employment. After the first social insurance registration, Zakład Ubezpieczeń Społecznych (ZUS) [Social Insurance Office (SIO)] sets up an account and maintains it using the PESEL (Popular Electronic Census System – PECS) number.

If the insured individual has no PESEL (PECS) number, did not list it, or the validity of the listed number is questionable, the insured's account is tagged with the NIP (Taxpayer Identification Number). If the individual also does not have a NIP number – the personal identification card or passport number is used. The insured's account stores information about the compounded premiums paid for retirement insurance, excluding payments for *Otwarte Fundusze Emerytalne* (Open Retirement Funds).

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### 1.9. How can I check that proper premiums are being deducted?

As mentioned above, each month the payer provides a report on premiums deducted to the insured. If the information in the report does not match the actual situation, the insured must submit a written request to the payer to correct the personal monthly report within three months from receipt of the request. This fact must be reported to ZUS (SIO). In the event the premium payer does not remedy the problem within a month from receipt of the request, upon the request of the insured, ZUS (SIO) will issue a decision after conducting an explanatory proceeding.

ZUS (SIO) is required to provide insured individuals born after 31 December 1948 information about total premiums credited to his or her account as of 31 December of the preceding year. This is referred to as the “*informacja o stanie konta*” (account status information).

In the account status information, SIO also reports the level of:

- 1) compounded initial capital as of 31 December of the preceding year, if that capital has already been calculated for the insured,
- 2) hypothetical retirement benefits for the insured,
- 3) premiums for retirement insurance, excluding premiums for open retirement funds,
- 4) due and deducted premiums for open retirement funds.

Hypothetical retirement benefits are provided to insureds of at least 35 years of age as of 31 December of the preceding year. These are the hypothetical retirement benefits he or she would attain at age of retirement (60 years of age for women and 65 for men) as of current account status.

## 2. Additional retirement insurance information

### 2.1 What is Pillar II, and how do I sign up for it?

Retirement insurance premiums are mandatorily paid to the *Zakład Ubezpieczeń Społecznych* (Social Insurance Office) and to one of the *Otwarty Fundusz Emerytalny* – OFE (Open Retirement Funds – ORE). OFE insurance is the so-called Pillar II insurance, where 7.3% of the premium is deposited into an OFE (ORE) count. Currently, there are 14 different retirement insurance companies operating in Poland that offer open retirement funds.

The funds collect and invest money to pay fund members after the latter reach the age of retirement. OFE (ORE) also pay out periodic capital retirement benefits due as part of retirement insurance to individuals with an established right to

retirement benefits from the *Fundusz Ubezpieczeń Społecznych* (Social Insurance Fund). There are two kinds of periodic capital retirement plans – *okresowa* (term, up to 65 years of age) and *dożywotnia* [life] (65 years of age and up)

## 2.2. Who must select Pillar II retirement insurance?

Every working individual must select one of the *Otwarty Fundusz Emerytalny* – OFE (Open Retirement Funds – ORE). In practice, this requires an individual that wants to join a given fund to go to their chosen retirement insurance provider and sign a contract. Most retirement insurance providers make it easy for potential members to join: e.g. you can join via the Internet or arrange an individual meeting with an agent (it is common practice for agents to visit the potential client's home). Contact information for agents is available on the Internet pages of open retirement funds. To sign an agreement with an open retirement fund, you need to have your personal identification card and PESEL (PECS) numbers.

An employee selects a retirement fund by either 10 January or 10 July of a given year, depending on when he or she begins employment. If the insured does not perform the obligation by these deadlines, ZUS (SIO) will assign a randomly selected open retirement fund.

ZUS's (SIO's) random selection of *Otwarte Fundusze Emerytalne* (Open Retirement Funds) takes place twice year – 31 July and 31 January. The random selection involves only those retirement funds with less than 10% market share, therefore retirement funds that achieve above average returns do not take part in the selection. The random selection involves individuals that have begun employment.

Retirement fund rankings are available on the Internet. Note that it is possible to change your retirement fund and move premiums paid from one fund to another. The fund is required to provide written information on the cash value of funds deposited in his or her account, at least once per year upon member request.

## 2.3. What is Pillar III insurance?

Pillar III is a discretionary form of savings for the future. It includes two kinds of accounts: *Indywidualne Konto Emerytalne (IKE)* [Individual Retirement Account (IRA)] and *Pracownicze Programy Emerytalne (PPE)* [Employment Retirement Programs (ERP)].

To begin saving in an *Indywidualne Konto Emerytalne* [Individual Retirement Account (IRA)], you must sign an appropriate contract with an investment fund, stock brokerage office, insurance company or bank. Individuals with unlimited tax obligations (individuals with residency in Poland are subject to taxation on the whole of their earned income irrespective of the source of that income) in Poland,

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at least 16 years of age, have the right to make deposits into IKE (IRAs). Only one individual may deposit savings into each IKE (IRA).

In the IKE (IRA) contract you may name one or more individuals to whom the money accrued in the account will be paid in the event of the account holder's death. You may change that beneficiary at any time. If more than one person is selected, these individuals inherit in equal parts. Money accrued in the IKE (IRA) is paid out at the request of the account holder (after meeting terms described in the contract) or, in the event of the account holder's death, at the request of the entitled beneficiary.

Benefit payment may occur in a single payment or in rates, depending on the request of the account holder/entitled beneficiary. Deposits made to the IKE (IRA) cannot exceed triple the average forecast monthly wages in the Polish economy over the calendar year. IKE (IRA) deposits are tax deductible. You may change the institution that administers your IKE (IRA).

*Pracownicze Programy Emerytalne* (Employment Retirement Programs) are a form of organized group savings for future retirement established at an employer's discretion. An individual employed by several employers may take part in more than one such program at the same time. Employees who have been employed for three months or more may take part in the programs (unless the relevant contract provides otherwise). Employees over the age of 70 may not join the programs. The programs may take the following forms:

- 1) retirement fund;
- 2) contract for the employer to deposit employee premiums in an investment fund;
- 3) employee group life insurance coverage with a unit-linked insurance fund;
- 4) foreign managed.

An employee joins a program on terms described in the relevant contract by signing a declaration to join.

### 3. Health insurance

Poland offers a public health service open to all individuals insured by the *Narodowy Fundusz Zdrowia* (NFZ) [National Health Fund (NHF)]. Employed individuals must take part in mandatory health care coverage – that is the NFZ (NHF). Usually, the employer, commonly referred to as the payer, deducts health-care premiums from employee pay.

### 3.1. Can anyone buy NFZ (NHF) health care insurance?

Employed individuals are required to purchase health care insurance. Their insurance also covers direct family members – spouses and children. A foreign national not covered by that health insurance but residing in Poland may buy health insurance by submitting a written application to the *Narodowy Fundusz Zdrowia* (NFZ) [National Health Fund (NHF)]. For example, this coverage is available to people visiting Poland for internships, university studies, language courses, clergy, etc. The individual's health care coverage will begin on the date described in the contract signed with the Fund, and the coverage will end when the agreement terminates or if he or she does not pay premiums.

A person purchasing insurance at their discretion must report their family member information to the Fund using the ZUS ZCNA form. The premium for each calendar month is due and payable on the 15 day of each month for the previous month (e.g., the premium for July is due on 15 August). Premiums for discretionary health care insurance are paid to the ZUS bank account, which ends with the numbers 52.

### 3.2. What is the premium amount for health care insurance?

The basis for calculating healthcare insurance premium is the amount of declared monthly earned income, however, not lower than the amount that corresponds to the average wage. A healthcare insurance premium in 2009 is 9% of declared monthly income. The premium is monthly and indivisible.

**IMPORTANT!** The premium percentage level changes each year.

### 3.3. To what healthcare benefits is an insured individual entitled?

Individuals covered by mandatory or discretionary coverage of the *Narodowy Fundusz Zdrowia* (National Healthcare Fund) are entitled to a group of healthcare services, referred to as the “service basket,” which includes:

- 1) diagnostic testing, including medical laboratory diagnostics,
- 2) health maintenance services, disease prevention and early detection, including mandatory inoculations,
- 3) basic healthcare,
- 4) services in the teaching and learning environment,
- 5) specialized ambulatory (walk-in) services,
- 6) therapeutic rehabilitation,

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- 7) dentistry services,
- 8) hospital care,
- 9) highly specialized services,
- 10) at-home treatment,
- 11) psychological testing and therapy,
- 12) speech testing and therapy,
- 13) nursing and care services,
- 14) palliative and hospice care,
- 15) nursing and care for the disabled,
- 16) neonatal care for women,
- 17) care during breastfeeding for women,
- 18) prenatal care for the fetus and newborn as well as preliminary (postpartum) evaluation of the health and development of the child,
- 19) care over the healthy child, including healthcare and development checks for children up to 18 years of age,
- 20) spa therapy,
- 21) therapeutic and medical products as well as auxiliary supplies,
- 22) medical transport,
- 23) medical rescue services.

NOTE: services available as part of the service basket change from time to time.

### 3.4. What healthcare services are not guaranteed?

NFZ (NHF) healthcare coverage **does not include** the following services:

- 1) non-mandatory inoculations;
- 2) plastic surgery and cosmetic procedures not involving removing the effects of congenital defects, injury, illness or treatment thereof;
- 3) sex reassignment surgery;
- 4) acupuncture services, with the exception of those provided in the treatment of chronic pain;
- 5) natural therapy and rehabilitation in spas, sanatoria and walk-in clinics, not related to the underlying illness that is the direct cause of referral for spa treatment;
- 6) sexuological counseling in the realm of walk-in specialized care, not including individuals with significant disability levels;
- 7) psychoanalytical counseling;
- 8) ozone therapy;
- 9) autogenous vaccines (prepared from the bacteria harbored by the patient);

- 10) magnetic therapy using a constant magnetic field;
- 11) laserpuncture;
- 12) acupressure;
- 13) animal therapy;
- 14) diagnostics and therapy as part of non-conventional, folk or oriental medicine.

### 3.5. Choosing a clinic and doctor under NFZ (NHF) coverage

An NFZ (NHS) insured individual may select the NFZ (NHS) contracted clinic to which he or she will belong. When joining a clinic, an insured also selects his or her general practitioner (primary caregiver), nurse and, if applicable, midwife. It is possible to change these choices, but no more than twice per calendar year, and each additional change costs 80 zł. This does not apply to changes of address or situations where the selected general practitioner, nurse or midwife stop providing healthcare services and/or other reasons beyond the control of the insured.

### 3.6. What document proves the right to healthcare services?

The *karta ubezpieczenia zdrowotnego* (health insurance card) or other documents confirm the insured's right to health care services and enable health services to be covered and performed in Poland. The health insurance card is issued free of charge by the voivodeship section of the *Narodowy Fundusz Zdrowia* (National Healthcare Fund). A fee of 1.5% of minimum wage is charged to issue a new card in the event its loss or destruction. The healthcare insurance card can be used as the European Health Insurance Card.

Other evidence of NFZ (NHF) insurance coverage can be used to use public health care. These include:

- 1) For an individual employed pursuant to an employment contract:
  - Health insurance registration form and current confirmed monthly ZUS RMUA report provided by the employer (does not apply to individuals on unpaid leave in excess of 30 days),
  - Current confirmation from the employer,
  - Insurance ID card with the current date and employer stamp;
- 2) For individuals conducting economic activity:
  - Health insurance registration form and current proof of payment of health-insurance premium;
- 3) For KRUS (Agricultural Social Insurance Fund – ASIF) insured individuals:
  - Statement or ID with current stamp from KRUS (proof of payment if he or she operates special agricultural production);

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- 4) For retirees and pensioners:
  - Retiree/pensioner ID (ID cards issued by ZUS [SIO] should show the NFZ [NHF] voivodeship office number, the third and fourth digit of the ID number)
  - Statement from ZUS (SIO) or KRUS (ASIF)
  - Current copy of a retirement or pension statement (ZUS [SIO] issues it once per year);
- 5) For an individual registered as unemployed:
  - Current statement from the *Urząd Pracy* (Labor Office) confirming health insurance coverage;
- 6) For an individual purchasing discretionary coverage:
  - Contract signed with NFZ (NHF) and ZUS document confirming health-insurance registration along with current proof of premium payment;
- 7) For family members of the insured:
  - Proof of premium payment by the main payer and proof of registration of the family member with health insurance (e.g. the following forms: ZUS RMUA + ZUS ZCZA or ZUS ZCNA),
  - Family ID card with current date and employer stamp,
  - Current statement from employer,
  - Retiree/pensioner ID card listing covered family members, which confirms registration on or after 1 January 1999, along with a current benefit statement (this applies only to KRUS (ASIF), in other cases, the payer issues a statement concerning family members covered by health insurance);
- 8) For students
  - Documents as for other family members and a current school/university ID card (university ID cards required for individuals 18 years of age or older).

NOTE: in case of emergencies, the insurance document must be presented within 30 days of the inception of healthcare services (if the patient remains in the hospital) or within seven days from completion of healthcare services.

### 3.7. Referrals to specialists and for testing

Referrals from your general practitioner are sometimes required to see certain specialists. Diagnostic testing, including medical laboratory diagnostic testing (including those guaranteed as free services), is also performed after receiving a referral from a doctor.

The following services **do not** require a referral:

- 1) gynecology and obstetrics;
- 2) dentistry;
- 3) dermatology;
- 4) venerology;
- 5) oncology;
- 6) optometry;
- 7) psychiatry;
- 8) for individuals with tuberculosis;
- 9) for HIV-infected individuals;
- 10) for vision-impaired civilian victims of war;
- 11) individuals dependent on alcohol, intoxicants and psychotropic substances – in the realm of dependency treatment;

### 3.8. Hospital care

An NFZ (NHF) insured is entitled to hospital care pursuant to a referral from a general practitioner, specialist, including a private physician, if the treatment goals cannot be attained through ambulatory (walk-in) care. In emergencies, hospital care is provided without referral.

### 3.9. Private healthcare

Private healthcare services are available and popular in Poland. When using private healthcare services, the patient pays for each service. Private practitioners (doctors) and medical clinics provide these services (contact information is available in telephone books or on the Internet). Some facilities offer NFZ (NHS) services as well as paid services. When receiving medical service in such a facility, specify if the patient will use paid or NFZ (NHF) services. Insurance and service packages are available from private medical facilities for individual and corporate clients. The packages vary in price and scope of services available. Frequently, large employers offer employees additional healthcare insurance from a private healthcare provider.

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### 4. Other insurance

#### 4.1. What other insurance coverage is mandatory?

Mandatory insurance coverage:

- 1) vehicle owners' civil liability (CL) insurance (applies to, e.g. cars, trucks and motorcycles). Insurance coverage is commonly referred to as "OC" or "*OC posiadaczy pojazdów mechanicznych*" ["CL" or civil liability vehicle owners insurance],
- 2) insurance of farm buildings against fire and Acts of God.

#### 4.2. What is "OC" insurance?

"OC" insurance is civil liability insurance that must be purchased by every owner of a vehicle (car, truck, motorcycle etc.). This insurance is used to cover any damages caused by the operation of that vehicle. In Poland, "OC" (civil liability) insurance covers the civil liability from any damage caused by any individual operating the insured vehicle.

Vehicle owners' "OC" civil liability insurance covers events occurring in Poland. However, it may also cover insurance events occurring in other states, pursuant to mutuality principles.

#### 4.3. Where can I buy OC vehicle insurance?

How long is the insurance period?

Most large insurance companies offer vehicle insurance. Visit an insurance company office or make an appointment with an agent to sign an insurance contract.

Insurance contracts have 12-month or shorter terms, if the vehicle is:

- 1) Permanently registered,
- 2) Temporarily registered,
- 3) Registered abroad,
- 4) A 'slow vehicle' – i.e. an engine-powered vehicle limited by design to speeds of 25 km/h, excluding farming tractors,
- 5) A historic vehicle.

Insurer liability begins when the contract is signed and the insurance premium or the first premium installment is paid. An OC insurance coverage contract is extended automatically. To cancel OC insurance coverage, the contract must be terminated in writing at least one day prior to the passage of a 12-month period

for which the *OC* insurance contract was signed. If an individual fails to notify the insurance company about contract termination, the contract will be extended for another 12 months. Naturally, the premium for that year also needs to be paid.

In the event of the sale of a vehicle whose owner has an *OC* insurance contract, the contractual rights and obligations from the insurance contract transfer to the new vehicle owner. That insurance contract will then expire at the end of its validity, unless the new owner terminates it within 30 days from the purchase of the vehicle. The seller must provide the purchaser with documents confirming *OC* vehicle insurance coverage, as well as providing the insurer with notice of the sale and the purchaser's personal information within 30 days.

#### 4.4. What is *autocasco* (*AC*) vehicle insurance?

*Autocasco* or *AC* [i.e. comprehensive and collision, sometimes also referred to in English as 'own coverage'] vehicle insurance is not mandatory and can be purchased by vehicle owners. It generally covers a vehicle and its parts against damage, destruction, and theft. A given insurance company individually establishes the exact extent of coverage.

#### 4.5. What is *NNW* insurance?

*NNW* (*następstw nieszczęśliwych wypadków*) is discretionary (i.e. not mandatory) insurance that covers vehicle owners and passengers against the costs of treatment due to bodily harm or disability and/or provides benefits in the event of death. Insurance companies also provide other accident coverage, e.g. for participants of children's vacation camps and travel insurance.

#### 4.6. Home and flat insurance

Insurance covering a flat or a house and its contents is discretionary coverage. The coverage scope offered by various insurance companies varies widely. Insurance is available against theft, fire, flood, or other Acts of God. Customers can select offers that best fit their needs.

NOTE: large insurance companies have extensive offers and most insurance contracts can be signed with a single agent. This includes retirement insurance (Pillars II and III), civil liability insurance (e.g. vehicle "*OC*" [vehicle civil liability], and general civil liability), property insurance (flat, house, vehicle collision and comprehensive) as well as accident insurance (*NNW*).

*Ewa Ostaszewska*

## Section VIII. Social Welfare Assistance

### 1. Who is eligible to receive social welfare assistance payments?

Foreign nationals with a place of residence and stay in Poland are entitled to social assistance welfare benefits, if they hold a:

- 1) Settlement Permit,
- 2) Long-term Residency of a European Community Citizen Permit,
- 3) Residency Permit for a Set Period of Time (granted in connection with the intent to perform employment or conduct business activity, study, undergo professional training, or for other reasons),
- 4) Long-term Residency of a European Community Citizen permit granted by another European Union member state,
- 5) Tolerated Stay Permit (but benefits are then limited only to shelter, food and funds for specific purposes),
- 6) Citizens of European Union member states, European Free Trade Association, European Economic Area or Switzerland and members of their families with residency or permanent residency permits in Poland.

Human trafficking victims have rights to benefits that include emergency intervention, shelter, food, necessary clothing, and funds for a specific purpose. However, such an individual must meet the following terms:

- Be present in Poland,
- He or she must cooperate with the appropriate justice organization responsible for preventing human trafficking,
- He or she must cease and desist from contacts with individuals suspected of perpetrating prohibited acts related to human trafficking, or there must be a finding by the appropriate justice organization responsible for preventing human trafficking that the foreign national is a likely human trafficking victim.

## 2. In what circumstances is one eligible for social welfare assistance?

Social welfare assistance is provided to individuals and families for reasons of:

- 1) Poverty;
- 2) Being orphaned;
- 3) Homelessness;
- 4) Unemployment;
- 5) Disability;
- 6) Chronic or debilitating illness;
- 7) Family violence;
- 8) To protect maternity or multi-child families;
- 9) Inability to rear/care for children and run a household, especially in single-parent or multi-child families;
- 10) Inability to live independently by youth discharged from 24-hour care and rearing centers;
- 11) Difficulties in living independently after discharge from penal institutions;
- 12) Alcoholism or drug addiction;
- 14) Acts of God and crisis situations;
- 13) Natural or environmental disasters.

## 3. What kinds of social welfare assistance benefits are available?

There are two kinds of social welfare assistance benefits: cash and non-cash.

Cash benefits:

- 1) Fixed (e.g. monthly) welfare assistance payments,
- 2) Periodic welfare assistance payments,
- 3) Welfare assistance for specific purpose and/or special assistance for a specific purpose,
- 4) Welfare assistance and loan to achieve financial independence,
- 5) Assistance for foster families,
- 6) Assistance to attain independence and continue education,
- 7) Pay to a guardian for providing care awarded by a court.

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Non-cash benefits:

- 1) Social work,
- 2) Funded transport ticket,
- 3) Health-insurance premiums,
- 4) Social welfare insurance premiums,
- 5) Material assistance including that which furthers economic independence,
- 6) Funeral expenses,
- 7) Specialized counseling,
- 8) Crisis intervention,
- 9) Shelter,
- 10) Food,
- 11) Necessary clothing,
- 12) Care services at the place of residence, support centers and family welfare assistance homes,
- 13) Specialized care services at the place of residence and support centers,
- 14) Protected public housing,
- 15) Boarding and services provided in social welfare assistance homes,
- 16) Care and rearing in a foster family and care/rearing facility,
- 17) Assistance in finding appropriate living conditions, including in protected public housing, assistance in finding employment, material assistance for individuals released to live independently,
- 18) Trainings, family counseling, and family therapy provided by adoption and rearing facilities.

### 4. Who is eligible for fixed welfare assistance payments?

The following are eligible for fixed welfare assistance payments:

- 1) an individual over the age of 18 living alone and unable to work due to age or total inability to work if his or her income is lower than the income criteria for an individual independently running a household,
- 2) an individual over the age of 18 living with family, unable to work due to age or total inability to work, if his or her income, as well as the per capita family income is lower than the per capita family income criteria.

### 5. Who is eligible for periodic welfare assistance payments?

The following are eligible for periodic welfare assistance payments during chronic illness, disability or unemployment:

- 1) individuals living alone whose monthly income is lower than the income criteria for individuals living alone (i.e. less than 477 zł),
- 2) families whose total monthly income is lower than the family income criteria (i.e. less than 351 zł).

## 6. What can welfare assistance for a specific purpose be awarded for?

Welfare assistance for a specific purpose may be awarded to pay necessary living expenses such as the purchase of food, medicine and medical care, heating fuel, clothing, necessary household items, minor home renovations and repairs, as well as funeral expenses. The specific purpose welfare assistance may be awarded in the form of a funded transport ticket.

## 7. Who is eligible to receive shelter, food and clothing?

An individual or family is eligible to receive shelter, food and necessary clothing if it does not have such. Shelter is provided in the form of temporary accommodation in lodging facilities, shelters, homeless housing, and other places adapted to such purposes. If clothing is necessary, undergarments, clothing and footwear of appropriate size and type for the given season are provided. Individuals unable to provide themselves with a meal by their own means are entitled to occasional or periodic assistance in the form of one hot meal per day.

## 8. How do I receive social welfare assistance benefits?

Social welfare assistance benefits are provided to interested parties, his or her legal representatives, or another party with the consent of the interested party or his or her legal representative. Social assistance may be provided *ex officio*. Social assistance is provided by a local *Ośrodek Pomocy Społecznej* (Social Assistance Center) appropriate for the applicant's place of residence and you cannot apply to simply any social assistance center for help.

*Agata Forys*

## Section IX. Legal protection – selected issues

### 1. Court system in Poland

According to the Polish Constitution, anyone under the jurisdiction of the Republic of Poland (Polish citizens and foreign nationals) is entitled to a fair and open review of their case by a competent, impartial and independent court. The European Convention on Human Rights and Fundamental Freedoms, of which Poland is a signatory also guarantees each person's right to a fair and public review of their case within a reasonable time by an impartial and independent court.

#### 1.1. Types of courts

There are four types of courts of justice in Poland: Supreme Court, common courts, administrative courts and military courts.

##### 1.1.1. Supreme Court

The Supreme Court oversees the jurisprudence of common courts. In criminal matters, the Supreme Court reviews **cassations**, which is a way to 'appeal' a final ruling of the court of appeal, where no further appeal is possible. The situations and cases where cassation is not possible are defined by law. In civil proceedings, a **cassation complaint** is the counterpart of a cassation, and may be used to appeal the verdict of a court of second instance in certain kinds of cases or from certain legally defined verdicts. Cassations and cassation complaints must be drafted by an attorney.

The supreme Court does not re-review the facts of a case, but investigates whether the common courts properly applied the law in the appealed verdict.

##### 1.1.2. Common courts – regional, district and appeals

Common courts are regional courts, district courts and courts of appeal. They are independent of other courts (administrative, military and the Supreme Court) and review many kinds of cases: civil, family, juvenile, labor and social insurance,

economic, bankruptcy, criminal, misdemeanor, and penitentiary. Courts also maintain real estate registers and rolls. The courts are split into divisions that specialize in specific kinds of cases, e.g. civil, criminal, family, and juvenile. Some regional courts have magistrate divisions that review misdemeanors as well as “minor” criminal and civil matters.

**Court proceedings have two instances**, meaning if someone is unhappy with the decision of the court of first instance, they may **appeal** that decision to the court of second instance. The court of second instance (court of appeal) may uphold or change the appealed decision, and it may also overturn the decision and remand it for new review by the court of first instance. The **court of first instance is the regional or district court** – depending on the kind of case. In order to begin a proceeding before the court, it is necessary to file a procedural writing – a complaint to the appropriate court. The complaint may be filed directly with the court or sent by registered mail. In civil cases, the competent court is usually the one with jurisdiction over the defendant’s place of residence. In criminal cases, the competent court is one with jurisdiction over the place where a crime was committed.

**Regional Courts** are located in all larger cities. In the largest cities, e.g. Warsaw, Łódź, or Krakow, there are several regional courts established in one or several city districts. Regional courts are courts of first instance in all matters not reserved to the district court. For example, regional court cases concern property rights when the amount in dispute does not exceed 75 000 zł, cases concerning alimony, numerous crimes – theft, assault, as well as all misdemeanors.

**District Courts** are located in larger cities. They are courts of second instance (meaning they review appeals against regional court verdicts) and courts of first instance e.g. in cases of the most serious crimes, copyright and other property rights where the amount in dispute exceeds 75 000 zł, divorce, separation, adoption and legal incapacity.

**Courts of Appeal** serve only as courts of second instance and review appeals against district court verdicts issued in the first instance. There are 11 Courts of Appeal.

NOTE: Polish is the official language used in Polish courts. Individuals with insufficient familiarity with the Polish language may apply to appear before the court using a language they are familiar with and use an interpreter at no cost. The complete list of common courts along with their telephone numbers is available on the Internet page of the Ministry of Justice ([www.ms.gov.pl](http://www.ms.gov.pl)).

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Administrative Courts judge the legality of actions of the public administration. They are responsible for many matters related to the presence of foreign nationals in Poland, such as residency permits and expulsions. Proceedings before administrative courts are two-instance.

### 1.1.3. *Wojewódzkie sądy administracyjne (WSA)* – Voivodeship Administrative Courts

There are 14 voivodeship administrative courts in Poland. They are courts of first instance that **review complaints against the decisions and regulations of administrative bodies**, if other available means of appeal have been exhausted. Complaints to administrative courts usually concern decisions or regulations issued by administrative bodies of the second instance as well as omissions (failure to act) by administrative bodies. Complaints must be filed to the court with jurisdiction over the main office of the administrative body that issued the decision or regulation to be reviewed. For example, if the complaint is against a decision of the Head of the Office for Foreigners' with its main office in Warsaw, the appropriate court to file the complaint would be the Warsaw Voivodeship Administrative Court.

An administrative court may not change the decision it is reviewing. It has the following options: dismiss the complaint (if it finds the decision was issued legally), agree with the complaint and overturn the decision or regulation (the matter is then re-reviewed by an administrative body), find that the decision/regulation is void or that it was issued in violation of the law.

A Voivodeship Administrative Court verdict or ruling can be appealed through a cassation motion to the *Naczelny Sąd Administracyjny* (NSA) [Supreme Administrative Court (SAC)], which must be drafted by an attorney.

### 1.1.4. Military courts

Military courts include military district and garrison courts. They review cases involving crimes committed by soldiers and employees of the military forces.

## 2. Crimes

### 2.1. What should I do if I have been the victim of a crime?

The police and prosecutors office are responsible for investigating crimes, irrespective of whether the victim or perpetrator is a Polish citizen or foreign

national. If you have been the victim of a crime, you should inform the police or prosecutor's office. This is called a **crime report**. There are several ways to file a crime report: orally (e.g. by phone or in person at a police station or prosecutor's office – the reporting party is then interviewed as a witness and a report is written on such an interview) or in writing, where a letter describing the event can be sent by mail or left at the police station or prosecutor's office. If the victim does not speak Polish, police and prosecutorial authorities must translate his or her oral or written report into Polish.

## 2.2. What kinds of crimes are there and what do they mean?

A crime report alone is not always enough to start an investigation. Crimes are categorized as follows, depending on the way they are investigated:

- **Crimes investigated *ex officio*** – these are crimes the police and prosecutor must investigate if they receive any information that such have been committed (e.g. from the victim, witness, through the media). Most crimes fit into this category, e.g. homicide, robbery, assault, abuse, human trafficking, bribery, as well as hate crimes (i.e. against individuals due to their nationality, race, denomination etc.). In these cases, a crime report is enough and the victim does not need to do anything else for police and prosecutorial bodies to investigate his or her case;
- **Crimes investigated upon request** – for these types of crimes, it is necessary for the victim to **press charges**, i.e. an application that states that the victim wants the police/prosecutor to investigate his or her case. Without the victim's request, the police/prosecutor cannot do anything to pursue the case. However, after the victim makes a request, the investigation is conducted in the same manner as it would be for *ex officio* investigated crimes. Crimes investigated upon request include rape, sexual molestation of an individual that is helpless, mentally disabled, dependent or in a critical situation, criminal threats, criminal failure to pay alimony, destruction or damage of personal property, exposure to HIV virus, venereal, infectious, incurable or life-threatening disease, as well as certain other crimes if they have been committed against family e.g. theft, burglary, fraud, bodily harm or causing health failures lasting in excess of seven days;
- **Crimes investigated on private accusation** – police and prosecutor do not investigate and prosecute these kinds of crimes due to their relatively low social harm. Reporting this kind of crime will not result in an investigation by the justice services. Only by way of exception will the prosecutor join a proceeding already in progress if that is in the social interest. In principle, however, if the victim wants to convict the perpetrators, he or she must file a complaint with

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the court. There are not many of these types of crimes (referred to in Polish as *prywatno-skargowe*): causing bodily damage or failure of health lasting less than seven days, slander/libel, insult, and violation of bodily inviolability.

### 2.3. How do I know if the police are investigating a reported matter?

Within **six weeks** of reporting a crime, the reporting individual must be informed that an investigation was opened or the case dismissed by the police and prosecutor. If you do not receive this notice, you may file a complaint to the supervising prosecutor or one appointed to supervise the institution where the report was made. Information about the managing or supervising prosecutor and his or her superior is available at your local prosecutorial office. Note that police and prosecutorial proceedings, referred to as preliminary proceedings, are closed and confidential – investigative bodies do not inform anyone, including the reporting individual, about the course of the matter.

If the police and prosecutor refuse to open an investigation or dismiss a case against the perpetrator (e.g. if the perpetrator is insane, dead, has committed a crime of low social harm, or there is insufficient evidence) the victim may find a complaint against this decision. Instructions on the deadline and a way to submit a complaint should be included by the police or prosecutor in the decision to drop the case.

Preliminary proceedings end when charges are filed with the court. From that point on, the matter proceeds before the court. In certain circumstances defined by law, the case may be dismissed (for the same reasons that police or prosecutor may refuse to pursue a case above).

### 2.4. Can the victim have a lawyer? What if the victim cannot afford a lawyer?

In the course of a proceeding before the police, prosecutor and/or court, a lawyer may represent and help the victim; during the proceedings, the attorney performs the role of a **representative**<sup>18</sup>. A representative acts on behalf of the victim and has the same rights as the victim. If someone cannot afford to pay for a lawyer of their choice, they may apply to the court to appoint a **court-appointed**

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18 A legal counselor may be the representative of a state, local government or social institution, as well as – with respect to property claims – and other legal entity, unincorporated organization, or individual conducting economic activity.

**representative**, to provide free representation. Two conditions must be met for the court to appoint a free representative:

- 1) The victim has not hired his or her own lawyer,  
and
- 2) is unable to pay for legal representation without harming their financial ability to pay for his or her and family living expenses. This means you do not need to have no income whatsoever to request a court-appointed representative. Courts agree to appoint a free lawyer in cases where a given person has certain funds but hiring a lawyer would make it impossible for them to pay for family living expenses.

## 2.5 What are hate crimes?

Under Polish law, use of violence or criminal threats, or inciting others to do so against individuals or groups based on their nationality, ethnicity, race, political, denominational membership or lack of such is a punishable special category of crimes. It is also a crime to publicly insult or violate a person's bodily inviolability for the above reasons as well as inciting hate based on national, ethnic, racial, denominational (or lack thereof) differences. These crimes all share a common motive, which is prejudice and hate toward the victim due to their ethnic, racial or gender or their religion, and are called **hate crimes**. They are prosecuted *ex officio*, and carry greater penalties than for similar crimes without the motive of hate, such as assault or criminal threats. That is why it is important to clearly inform police or prosecutors that a crime was related to a victim's skin color, place of origin or religion when reporting a crime. This allows the crime to be properly categorized and the victims to be charged with committing a hate crime, rather than a e.g. "regular" assault.

Hate crimes also include insulting of religious feelings, e.g. by profaning symbols or locations associated with a given faith, malicious interference with public performance of a religious service of a church or other denominational union with a regulated legal situation, and/or prejudicing an individual's rights due to his or her denominational membership or lack thereof.

## 2.6. A foreign national as defendant

A foreign national suspected or accused of committing a crime has the right to the free assistance of an interpreter if he or she does not have sufficient command of the Polish language. This means an interpreter must be used in all activities involving the defendant (e.g. interviews and hearings), and the decision to file, supplement or amend charges, criminal complaint or verdict subject to appeal or

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ending a proceeding must be delivered along with a translation. If the final decision/verdict is not subject to appeal, with the defendant's consent, it is enough to announce the translated decision/verdict.

A defendant who cannot afford a lawyer has the right to ask the court to assign one, if he or she can show the inability to pay the costs of defense without harming their ability to pay for necessary living expenses for themselves and their family.

### 3. Protection against discrimination

#### 3.1. What is discrimination?

**Discrimination** is treating someone worse as compared to other people in a similar situation. An example of discrimination is if one person is paid less than other employees by the same employer even though he or she has the same duties, responsibilities, experience, etc. Discrimination is also refusal or making it difficult for someone to get a job, education, services or other social goods. Reasons for discrimination may vary, such as ethnic origin or race, denomination or religion, gender, sexual orientation, etc. The above cases are direct discrimination.

Another type of discrimination is **indirect discrimination**. Indirect discrimination occurs when seemingly neutral conditions, criteria or practices in fact discriminate against a certain individual or group. This involves criteria that are not reasonable. For example, limiting driving licenses only to adults may be considered reasonable, but giving drivers licenses only to people who own cars would be unreasonable.

The Polish Constitution states that everyone is equal before the law and has the right to equal treatment by public officials. No one may be discriminated in public, social, or economic life for any reason whatsoever. Anyone under the authority of the Republic of Poland has the right to take advantage of these rights and freedoms assured in the Polish Constitution. There may be exceptions to this rule with reference to foreign nationals however, but these must be described by law.

#### 3.2. Discrimination at work

The Labor Code clearly prohibits direct and indirect discrimination in employment due to gender, age, disability, race, religion, nationality, political convictions, labor union membership, ethnic origin, denomination, sexual orientation as well as due to employment for a set or undefined period of time, or full or part-time.

The labor code names harassment, i.e. behavior the goal or effect of which is to violate the decency, demean or humiliate an employee, or unacceptable behavior of a sexual nature, i.e. sexual harassment.

It is a violation of the principle of equal treatment in employment to treat an employee different for one or more of the above reasons resulting in, among other things, a refusal to start or terminate the employment relationship, unfavorable terms of pay or other terms of employment, passing over in promotions or other work-related benefits – unless the employer can prove it applied objective criteria.

There are certain exceptions to this rule. For example, if an employer refuses to hire somebody for one of the above reasons, it would not be discrimination if this refusal is reasonable due to the type of employment, conditions in which it is performed or professional requirements required of the employees, as well as in the use of means differentiating employee the legal situation to protect employee parenthood, age or disability. Affirmative action, i.e. different treatment for the purpose of equalizing the opportunities of individuals/groups that are in the more difficult situation, is not a violation of equal treatment in employment. Different treatment of employees due to religion is not discrimination if the employee's religion or denomination constitutes a significant, reasonable and justified professional requirement due to the type and nature of a given type of employment.

Further, every employee is entitled to equal pay for equal work or work of equal value, i.e. work that requires comparable professional qualifications and comparable responsibility and effort.

### 3.3. What can a discriminated person do to protect their rights?

A person whose employer violated the principle of equal treatment in employment has the right to **compensation** of no less than minimum wage. Importantly, it is illegal for an employee to be fired for taking advantage of rights he or she is due because of equal treatment violations.

An employee is entitled to take advantage of mediation, which is a way to settle a problem without going to court. It is also possible to seek compensation in court, by filing a request (called a complaint) against an employer. A complaint should be filed with the local court proper for the employer's place of residence (if he or she is an individual), the company's registered address (if it is an organization, e.g. a limited liability company) or to the court responsible for the area where the work was performed. Employment discrimination cases are reviewed by labor sections in regional courts (labor courts)<sup>19</sup>. Regional court decisions can be appealed to the district court.

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19 With the exception of cases where the value of the amount in dispute exceeds 75 000 zł. Then, the Court of first instance is the District Court, with the Court of Appeals having jurisdiction over appeals.

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In proceedings before the court, a discriminated employee may appear alone or through a representative, which may be an attorney, but also family (parents, spouse, descendants, and individuals related to adoption) as well as an associate to the dispute, such as a labor union representative, labor inspector or another party employed where the alleged discrimination occurred.

In most cases, employees that file complaints are exempt from court fees, e.g. for filing a complaint. That changes when the complaint requests an amount over 50 000 zł from the employer – then a fee of 10% of the requested amount must be deposited. The fee for filing an appeal is currently fairly low, under 100 zł. In addition to fees during the proceeding, there are also other expenses, such as costs of witness appearances, pay to experts and translators. An employee has to pay these costs if he or she loses the case before the court.

Problems related to discrimination can also be submitted to the *Państwowa Inspekcja Pracy* (State Labor Inspectorate), which enforces observance of labor law. The *Okręgowy Inspektorat Pracy* (District Labor Inspectorates) provide free legal advice in labor law as well as specialized telephone hotlines concerning discrimination. The contact information is available on the Internet page of the *Państwowa Inspekcja Pracy* ([www.pip.gov.pl](http://www.pip.gov.pl)) (State Labor Inspectorate).

### 3.4. How can a victim of non-employment related discrimination seek his or her rights?

Some instances of discrimination are crimes under Polish law and are enforced through criminal proceedings (compare point 2.5. of this section). Further, victims may seek compensation in civil proceedings under the general principle that if personal rights or property have been violated, compensation or restitution is due for the harm or damages incurred, as well as requesting redress of damages from the party that was at fault for causing it.

## 4. Complaint to the European Court of Human Rights

### 4.1. What is the European Court of Human Rights and what does it do?

The European Court of Human Rights (ECHtR) is an international court that operates within the Council of Europe – an international organization with a current membership of 47 states. The court is located in Strasbourg, France. The court's task is to assure that the European Convention on Human Rights and Fundamental

Freedoms (ECHR) and its protocols are observed by signatory states<sup>20</sup>. The court carries out this task mainly by reviewing individual complaints against alleged violations of rights and freedoms set out in the Convention and its protocols.

#### 4.2. Who can file a complaint to the ECtHR?

Any **individual, group of individuals, as well as an organization** can file a complaint if it feels its rights under the Convention have been violated by a signatory state. This means that a foreign national who is not a citizen of a state that signed the Convention may also file a complaint against a violation of its rights or freedoms by Poland (within Poland's jurisdiction, i.e. generally on Polish soil).

#### 4.3. What does a ECtHR complaint apply to?

A complaint may **only apply to the acts or omissions (failure to act) by state authorities**, e.g. administrative or official bodies, courts, police officers, and cannot apply to violations of rights by other individuals or private institutions. Further, the Court investigates cases concerning **violations of rights and freedoms guaranteed in the ECHR and its Protocols**. These rights and freedoms include the right to life, freedom and personal security, right to a fair trial, right to respect for one's private and family life, freedom of thought, conscience and denomination, freedom of expression, assembly and association, right to effective means of appeal, right to respect for property, prohibition against torture and inhumane or demeaning treatment or punishment, prohibition against slavery and forced labor, prohibition against discrimination in taking advantage of freedoms and rights named in the Convention, prohibition against the mass deportation of foreign nationals.

#### 4.4. What formal requirements must a complaint to the ECtHR meet?

##### 1) **Requirement to exhaust state forms of appeal**

The ECtHR may review a case only after the complainant has exhausted all available means of appeal under Polish law. Generally, that means that before filing a case with the ECtHR, one has to:

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20 All states of the Council of Europe are parties to the ECHR, though some have not adopted all of its protocols. The current list of signatories and ratifications is on the Internet page of the European Court of Human Rights at: [www.echr.coe.int](http://www.echr.coe.int)

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- in civil cases: file an appeal and cassation complaint (if one applies),
- in criminal cases: file an appeal and cassation (if one applies),
- in administrative cases: file an appeal with a body of second instance, a complaint to the voivodeship administrative court and a cassation complaint to the *Naczelny Sąd Administracyjny* (Supreme Administrative Court).

### 2) **Deadline**

The complaint must be filed within **six months** from the date of the final decision issued by state bodies. There is no exception to this rule, and there is no way of returning to the date once it has passed.

### 3) **ECtHR or other international court has not reviewed the matter**

The essence of the case may not be identical to one that the Court has already reviewed or a case previously subjected to another form of international review or resolution, if the relevant complaint contains no new significant information.

If any of the formal requirements are not met, the Court will dismiss the complaint as inadmissible. The Court's decision cannot be appealed.

## 4.5. How to file a complaint

A complaint may be filed by the complainant or through a lawyer; the filing is free. The complaint should contain the most significant facts and allegations and indicate which rights or freedoms have been violated. The complaint must be signed and filed on an official form with photocopies of relevant court decisions and verdicts; it must then be mailed directly to the address of the European Court of Human Rights<sup>21</sup>. The complaint may be written in any language of a signatory state, i.e. in Polish, but also in e.g. Russian, Ukrainian or Armenian.

## 4.6. Description of proceedings before the European Court of Human Rights

If ECtHR finds that the complaint meets all formal requirements, it will send it to the government whose acts or omissions it concerns, with a request for a response to the allegations contained in the complaint. This is the complaint communication stage and, here, the proceeding starts being conducted in one of the Court's official languages, i.e. English or French. In principle, the complainant

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21 European Court of Human Rights, Council of Europe, 67075 Strasbourg-Cedex, France.

should communicate with ECtHR only in those two languages, unless the President of the Grand Chamber permits proceedings in the language of the complaint. Further, at this stage, the complainant must select a lawyer to represent him or her before the Court. If the complainant cannot afford to pay all or part of the proceeding costs, the President of the Court Chamber may assign the complainant free legal aid, upon request or by decision of the court. If the Court finds the state violated the Convention or its Protocols, it will issue a verdict confirming that finding and award so-called ‘just satisfaction’. This is a sum of money to recompense the losses caused by the violation of the law. Because ECrHR is not a court of appeal, it cannot change or overturn state authorities’ decisions or verdicts. ECtHR cannot change the law that was the basis for decisions that violated human rights. Responsibility for supervising the execution of judgments lies with the Committee of Ministers of the Council of Europe.

## 5. *Rzecznik Praw Obywatelskich* (Commissioner for Civil Rights Protection)

### 5.1. Who is the *Rzecznik Praw Obywatelskich* (Commissioner for Civil Rights Protection) and what does he/she do?

*Rzecznik Praw Obywatelskich* (RPO) (Commissioner for Civil Rights Protection, a.k.a. Ombudsman) is an office for legal protection, impartial in its activity and independent of other state bodies. The Commissioner protects freedom, human and civil rights described in the Constitution and other legal documents that apply in Poland. The Commissioner reviews if the acts or omissions of bodies, organizations, and institutions responsible for protecting and executing human and civil rights and freedoms have not violated the laws or principles of social coexistence and social justice.

The Commissioner is supported by its deputies in executing its tasks, i.e. the *Biuro Rzecznika Praw Obywatelskich* (RPO) (Office of the Commissioner for Civil Rights Protection) as well as Area Commissioners in Gdańsk, Katowice and Wrocław.

### 5.2. Can a foreign national get help from the Commissioner?

A **foreign national under the jurisdiction of the Republic of Poland** may request assistance of the Commissioner – in practice, this means a foreign national must be present in Poland.

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As part of the Commissioner's Office, the Foreign Nationals Public Administration, Health and Rights Protection Office deals with the affairs of foreign nationals. Its responsibilities include matters concerning:

- rights of foreign nationals related to their stay in Poland, employment, health services, education and study in Poland, as well as application for Polish citizenship,
- rights of refugees and individuals seeking asylum,
- repatriates' rights,
- quality of border services and border controls.

### 5.3. How do I file an application to the Commissioner and what should it contain?

You can file an application to the Commissioner on your own behalf or on behalf of another person whose rights have been violated. The application does not need to be in any special format, but must contain basic information that will let the Commissioner investigate the problem, such as:

- the applicant's first and last name, and the first and last name of the person whose rights and freedoms have been violated – anonymous applications will not be reviewed,
- correspondence (mailing) address,
- a description of the case – what it concerns, what rights and freedoms were violated and how,
- photocopies of documents that confirm the presented circumstances.

Filing an application is free of charge. It can be sent by mail to the Commissioner's Office address or by filling out an electronic form available on the Commissioner's Internet page.

### 5.4. How does the Commissioner operate?

The Commissioner will review every application it receives and decide if it will handle the given case. The Commissioner may decide not to handle a case, but inform the applicant of available actions, or pass the matter to an appropriate government office. The Commissioner will inform the applicant and the individual whom the case concerns of its decision. Regulations do not set a time limit for the Commissioner to provide its answer. There is no means of appeal to the Commissioner's refusal to handle a case. If it does decide to handle a case, it will investigate the facts listed in the application. The Commissioner may independently conduct an investigation or request another government office do so. It may also audit the

case within the allegedly problematic institution or request case files or information from any institution.

After investigating the case, the Commissioner may find no violation of rights and/or freedoms occurred. However, if it does find a violation of rights, the Commissioner may file a directive to the appropriate body, organization, or institution where the violation occurred or its supervisory body. The Commissioner's directive will state opinions and conclusions as to the handling of the case, and may also request a disciplinary proceeding or official sanctions be initiated. The institution receiving such a directive has 30 days to inform the Commissioner of actions or the position it has taken in response.

The Commissioner for Civil Rights Protection may also take other activities, such as submitting a cassation or cassation complaint to the Supreme Court and complaints to the Voivodeship Administrative Court or Supreme Administrative Court, requesting initiation of civil or administrative proceedings, or joining proceedings in progress. The Commissioner may also request the constitutionality of a law be investigated, and may submit a legislative bill.

In each case, the Commissioner informs the applicant of actions taken or informs that it found no violation of human rights and freedoms.

### 5.5. What does the Commissioner not do?

The Commissioner does not replace the appropriate institutions (administrative bodies, courts, etc.) in handling the essence of cases/matters for which they are responsible, especially if the administrative or court proceeding has not ended. The Commissioner also does not intervene in disputes between private parties/organizations, because it is responsible for preventing violations of rights and freedoms by public authorities. An application to the Commissioner will not replace regular means of appeal, e.g. an appeal in a criminal proceeding or against a negative administrative decision.

## 6. *Rzecznik Praw Dziecka* (Commissioner for Children's Rights)

### 6.1. What is the *Rzecznik Praw Dziecka* (Commissioner for Children's Rights) and what does it do?

The *Rzecznik Praw Dziecka* (RPD) (Commissioner for Children's Rights) protects the rights of children as defined by the Polish Constitution, Convention on the

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Rights of the Child and other laws, and works to protect these rights, especially the right to life and health, right to be raised by a family, right to decent living conditions, and right to an education. The Commissioner for Children's Rights acts to protect the child from violence, cruelty, exploitation, demoralization, neglect, and other mistreatment. A child is defined as every human being from conception until the age of majority, which generally means 18 years of age. This means that foreign national children and/or their parents may apply to the Commissioner for Children's Rights for help.

### 6.2. How can I contact the Commissioner for Children's Rights?

To ask the Commissioner for Children's Rights for help, contact its office by mail, telephone or e-mail. You can also report a case in person at the Commissioner's offices.

The Commissioner runs a Children's Helpline at 0 800 12 12 12 – a toll-free call from stationary (non-mobile) telephones. The helpline is for children who have a problem they cannot deal with and do not know who to ask for help. It also offers advice to adults who would like to report a child's problem.

### 6.3. How does the Commissioner for Children's Rights operate?

The Commissioner for Children's Rights operates in a very similar way to the Commissioner for Civil Rights Protection (compare point 5 of this section), but has a wider scope of authority.

The Commissioner takes actions on its own initiative, taking into consideration information it has received that indicate a violation of a child's rights or welfare have occurred. In each case, the Commissioner will inform the individual/organization that reported the violation about the position it is taking. If it decides to act, Commissioner will also report the results of its action. Regulations do not set a time limit on when Commissioner must respond to the applicant. There is no appeal from a Commissioner's position/decision.

The Commissioner may audit any case on the spot or request explanations, information and case files from public authorities, organizations, and other institutions. They must cooperate with the Commissioner and provide all assistance, information, and explanations. After investigating a case, the Commissioner may apply to the appropriate authority, organization or institution to take activities within its authority on behalf of the child. These must then inform the Commissioner of actions or position taken within 30 days. Further, if the Commissioner for Children's Rights finds a violation of the rights or welfare of the child by any

of the above institutions, it may request initiation of disciplinary proceedings or official sanctions.

The Commissioner for Children’s Rights has other forms of authority, similar to those available to the Commissioner for Civil Rights Protection.

NOTE: the Commissioner for Children’s Rights handles individual cases if these have not been properly resolved despite exhaustion of available legal means. The Commissioner for Children’s Rights does not replace specialized institutions responsible for protecting the rights of the child, but intervenes in situations where current procedures failed or were neglected.

e-book

## Annexes

### Annex 1. Churches and religious associations

#### Polish Autocephalous Orthodox Church

Al. Solidarności 52  
03-402 Warsaw  
tel.: (022) 619-08-86

#### Polish Reformed Church

Al. Solidarności 76a  
00-145 Warsaw  
tel.: (022) 831-45-22

#### Evangelical-Augsburg Church

ul. Miodowa 21  
00-246 Warsaw  
tel.: (022) 887-02-00

#### Evangelical-Methodist Church

ul. Mokotowska 12  
00-561 Warsaw  
tel.: (022) 628-53-28

#### Pentecostal Church

ul. Sienna 68/70  
00-825 Warsaw  
tel.: (022) 624-85-75

#### Seventh Day Adventist Church

ul. Foksal 8  
00-366 Warsaw  
tel.: (022) 3131431

#### Union of Christian Baptists

ul. Waliców 25  
00-865 Warsaw  
tel.: (022) 624-27-83

The Salvation Army  
03-735 Warsaw  
ul. Ząbkowska 38 suite 4/36

Armenian Apostolic Church  
90-638 Łódź  
ul. Piotrowska 182 m. 549

Muslim Religious Union in Poland  
ul. Grzybowa 42  
15-052 Białystok  
tel.: (085) 664 35 16

Polish Muslim League  
01-046 Warsaw  
ul. Niska 25 m 43

Association of Jewish Communities (Kehillah) in the Republic of Poland  
ul. Twarda 6  
00-950 Warsaw  
tel.: (022) 620-43-24

Polish Buddhist Union  
96-313 Jaktorów  
Grabnik 4

International Society for Krishna Consciousness  
05-500 Piaseczno Mysiadło  
ul. Zakręt 11

Watchtower – Bible and Tract Society (Jehovah's Witnesses)  
05-830 Nadarzyn  
ul. Warszawska 14

## Annex 2. Voivodeship Office addresses

Dolnośląski Urząd Wojewódzki  
(Lower Silesian Voivodeship Office)  
[www.duw.pl](http://www.duw.pl)  
Pl. Powstańców Warszawy 1, 50-951 Wrocław  
tel.: (0-71) 344 22 15, 340 60 00

Kujawsko-Pomorski Urząd Wojewódzki  
(Kuyavian-Pomeranian Voivodeship Office)  
[www.uwoj.bydgoszcz.pl](http://www.uwoj.bydgoszcz.pl)  
ul. Jagiellońska 3, 85-950 Bydgoszcz  
tel.: (0-52) 34 97 780

Lubelski Urząd Wojewódzki  
(Lublin Voivodeship Office)  
[www.lublin.uw.gov.pl](http://www.lublin.uw.gov.pl)  
ul. Spokojna 4, 20-914 Lublin  
tel.: (0-81) 532 45 43

Lubuski Urząd Wojewódzki  
(Lubuskie Voivodeship Office)  
[www.wojewodalubuski.pl](http://www.wojewodalubuski.pl)  
ul. Jagiellończyka 8, 66-400 Gorzów Wielkopolski  
tel.: (0-95) 720 22 10, 721 56 00

Łódzki Urząd Wojewódzki  
(Lodz Voivodeship Office)  
[www.uw.lodz.pl](http://www.uw.lodz.pl)  
ul. Piotrkowska 104, 90-925 Łódź  
tel.: (0-42) 633 17 60, 632 90 40

Małopolski Urząd Wojewódzki  
(Lesser Poland Voivodeship Office)  
[www.malopolska.uw.gov.pl](http://www.malopolska.uw.gov.pl)  
ul. Basztowa 22, 31-156 Kraków  
tel.: (0-12) 422 58 00, 616 02 00

Mazowiecki Urząd Wojewódzki  
(Mazovian Voivodeship Office)  
[www.mazowsze.uw.gov.pl](http://www.mazowsze.uw.gov.pl)  
Pl. Bankowy 3/5, 00-950 Warsaw  
tel.: (0-22) 620 13 97, 695 69 97

Opolski Urząd Wojewódzki  
(Opole Voivodeship Office)  
[www.opole.uw.gov.pl](http://www.opole.uw.gov.pl)  
ul. Piastowska 14, 45-082 Opole  
tel.: (0-77) 454 55 20, 452 41 00

Podkarpacki Urząd Wojewódzki  
(Sub-Carpathian Voivodeship Office)  
[www.rzeszow.uw.gov.pl](http://www.rzeszow.uw.gov.pl)  
ul. Grunwaldzka 15, 35-959 Rzeszów  
tel.: (0-17) 862 30 32, 862 75 11

Podlaski Urząd Wojewódzki  
(Podlaskie Voivodeship Office)  
[www.bialystok.uw.gov.pl](http://www.bialystok.uw.gov.pl)  
ul. Mickiewicza 3, 15-213 Białystok  
tel.: (0-85) 741 59 78

Pomorski Urząd Wojewódzki  
(Pomeranian Voivodeship Office)  
[www.uw.gda.pl](http://www.uw.gda.pl)  
ul. Okopowa 21/27, 80-958 Gdańsk  
tel.: (0-58) 301 19 00, 307 70 11

Śląski Urząd Wojewódzki  
(Silesian Voivodeship Office)  
[www.katowice.uw.gov.pl](http://www.katowice.uw.gov.pl)  
ul. Jagiellońska 25, 40-032 Katowice  
tel.: (0-32) 255 40 37, 255 41 61

Świętokrzyski Urząd Wojewódzki  
(Świętokrzyski Voivodeship Office)  
[www.kielce.uw.gov.pl](http://www.kielce.uw.gov.pl)  
Al. IX Wieków Kielc 3, 25-516 Kielce  
tel.: (0-41) 344 29 56, 342 11 15

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Warmińsko-Mazurski Urząd Wojewódzki  
(Warmian-Masurian Voivodeship Office)  
www.uw.olsztyn.pl  
Al. Piłsudskiego 7/9, 10-959 Olsztyn  
tel.: (0-89) 523-22-00

Wielkopolski Urząd Wojewódzki  
(Greater Poland Voivodeship Office)  
www.poznan.uw.gov.pl  
Al. Niepodległości 16/18, 61-713 Poznań  
tel.: (0-61) 854-10-71

Zachodniopomorski Urząd Wojewódzki  
(Western Pomeranian Voivodeship Office)  
zuw.szczecin.uw.gov.pl  
Wały Chrobrego 4, 70-502 Szczecin;  
tel.: (0-91) 430-32-00, 430-33-00, 430-33-15.

### Annex 3. Institutions and organizations that provide assistance to foreign nationals

Biuro Rzecznika Praw Obywatelskich  
(Office of the Commissioner for Civil Rights Protection)  
Aleja Solidarności 77  
00-090 Warsaw  
tel.: (022) 55 17 700  
e-mail: rzecznik@rpo.gov.pl

Biuro Rzecznika Praw Dziecka  
(Office of the Commissioner for Children's Rights)  
ul. Śniadeckich 10  
00-656 Warsaw  
tel.: (0 22) 696 55 45  
e-mail: rpd@brpd.gov.pl

IOM Międzynarodowa Organizacja do Spraw Migracji  
(International Organization for Migration)  
ul. Mariensztat 8, 00-302 Warsaw  
tel.: (022) 538 91 69  
e-mail: iomwarsaw@iom.int www.iom.pl

Helsinki Fundacja Praw Człowieka  
(Helsinki Foundation for Human Rights)  
ul. Zgoda 11  
00-018 Warsaw  
tel.: (022) 556 44 40  
e-mail: hfhr@hfhrpol.waw.pl

Stowarzyszenie Interwencji Prawnej  
(Association for Legal Intervention)  
Aleja 3 Maja 12 lok. 510  
00-391 Warsaw  
tel.: (022) 621 51 65  
e-mail: interwencja@interwencjaprawna.pl

Fundacja Instytut na rzecz Państwa Prawa  
(Rule of Law Institute)  
ul. F. Chopina 14/70  
20-023 Lublin  
tel.: (0 81) 743 68 05  
e-mail: fundacja@fipp.org.pl  
www.fipp.org.pl

Ośrodek Migranta Fu Shenfu  
(Fu Shenfu Migrant Center)  
ul. Ostrobramska 98  
04-118 Warsaw  
tel.: (022) 610 02 52  
e-mail: osrodek@migrant.pl

Polskie Forum Migracyjne  
(Polish Migration Forum)  
ul. Orła Białego 44 a  
05-080 Izabelin  
tel.: (0) 605 888 753  
e-mail: info@forummigracyjne.org

Polska Akcja Humanitarna  
(Polish Humanitarian Organization)  
ul. Szpitalna 5 lok. 3  
00-031 Warsaw  
tel.: (0 22) 828-88-82  
e-mail: pah@pah.org.p

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### Caritas

ul. Skwer Kard. Stefana Wyszyńskiego 9  
01-015 Warsaw  
tel.: 022 334 85 00  
e-mail: [Caritas@caritas.pl](mailto:Caritas@caritas.pl)

### Uniwersytecka Poradnia Prawna Uniwersytetu Jagiellońskiego

#### Sekcja Praw Człowieka

(University Legal Aid Clinic of the Jagellonian University, Human Rights Section)

Al. Zygmunta Krasińskiego 18

30-101 Kraków

tel.: (012) 430 19 97

[www.upc.uj.edu.pl/sekcja](http://www.upc.uj.edu.pl/sekcja)

### Stowarzyszenie Praw Człowieka im. Haliny Nieć

(Halina Nieć Human Rights Association)

ul. Sobieskiego 7/3

31-136 Kraków

tel.: (012) 633 72 23

e-mail: [Office@niecassociation.org](mailto:Office@niecassociation.org)

### Fundacja „Ocalenie”

(“Ocalenie” Refugee Assistance Foundation)

ul. Ordynacka 9 / 21 (2nd Floor)

00-384 Warsaw

tel.: +48 22 828 50 54

[fundacja@ocalenie.org.pl](mailto:fundacja@ocalenie.org.pl)

[www.ocalenie.org.pl](http://www.ocalenie.org.pl)

### Polski Czerwony Krzyż

(Polish Red Cross)

ul. Mokotowska 14

Warsaw

tel.: (022) 326 12 00

[www.pck.org.pl](http://www.pck.org.pl)

## Annex 4. Organizations of Foreign Nationals

Polsko-Sudańskie Stowarzyszenie na rzecz Współpracy i Przyjaźni Nil-Wisła  
(Nile-Vistula Polish-Sudanese Association for Cooperation and Friendship)

ul. Zwycięzców 19

03-936 Warsaw

tel.: +48 695 572 282

e-mail: nil-wisla@o2.pl

Indian Association of Poland

ul. Chmielna 132/134

00-850 Warsaw

tel.: (48 22) 520 28 00

Mobile: (48) 602 666 666

www.iap.org.pl

Ośrodek Medytacyjny Stupa House

(Stupa House Meditation Center)

ul. Ożarowska 65/67

Warsaw

tel.: +4822 877 34 08

e-mail: biuro@fsh.pl

Fundacja Ormiańska KZKO

(KZKO Armenian Foundation)

ul. Broniewskiego 54/83

01-716 Warsaw

Correspondence address:

ul. Filtrowa 83 / 21

02-032 Warsaw

tel.: (0) 696 586 108

e-mail: marta@fundacjaormianska.pl

www.fundacjaormianska.pl

Fundacja Afryka Inaczej

(A Different Africa Foundation)

e-mail: fundacja@afryka.org

www.afryka.org/fundacja

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Centrum Kultury Afrykańskiej Motema Africa  
(Motema Africa African Culture Center)

Al. 3 Maja 16/18a

Warsaw

tel.: 501 053 716

Africana2006@yahoo.fr

AfricanCenter2007@yahoo.pl

Towarzystwo Społeczno-Kulturalne Wietnamczyków w Polsce

(Vietnamese Socio-cultural Association in Poland)

ul. Marszałkowska 45

00-648 Warsaw

Annex 5. Foundation for granting a Residency Permit for a Set Period of Time, pursuant to the act dated 13 June 2003 on aliens (Dz.U. 2003 Nr 128, poz. 1175 z późn.zm. [Act on Aliens] [*Journal of Laws* 2003 No. 128, item 1175, as later amended])

Art. 53.

1. A Residency Permit for a Set Period of Time shall be granted to a foreign national, who:

1) holds an employment permit or a written statement by an employer of the intent to employ a foreign national, if an employment permit is not required;

2) conducts business activity pursuant to regulations applicable in that realm within the Republic of Poland, beneficial to the national economy and, in particular, contributing to increased investment, transfer of technology, introduction of beneficial innovations or creating new jobs,

3) is an individual with recognized artistic achievements and intends to continue his or her creative work within the Republic of Poland,

4) takes part in trainings and professional internships implemented as part of programs of the European Union,

5) intends to cohabit as a family member with a migrating employee described in the European Social Charter,

6) is the spouse of the Polish national,

7) arrives on the territory of the Republic of Poland or is present on said territory for the purpose of joining family as the family member of a foreign national,

8) is the minor child of a foreign national, which child was born within the Republic of Poland and is present on said territory without care,

9) is the spouse or child of a foreign national, which child has reached the age of majority, and which foreign national is described in art. 54, is present within the territory of the Republic of Poland for at least five years pursuant to residency permits granted in connection with circumstances described in point 7,

10) is present within the territory of the Republic of Poland pursuant to a Residency Permit for a Set Period of Time granted in connection with circumstances described in point 7, in the event of the death of a spouse, divorce, separation or death of an ascendant of the first degree or descendant of the first degree, if supported by a particularly important interest of the foreign national,

11) is present within the territory of the Republic of Poland pursuant to a Residency Permit for a Set Period of Time granted in connection with circumstances, referred to in point 6, in the event of the death of a spouse or divorce if supported by a particularly important interest of the foreign national,

12) is a minor child born within the territory of the Republic of Poland, of a foreign national who holds a Residency Permit for a Set Period of Time,

13) holds a Long-Term Residency of a European Community Citizen permit, granted by another European Union member state, who intends to perform employment or conduct business activity pursuant to regulations applicable in that realm within the Republic of Poland, undertake or continue university studies or professional training or shows the existence of other circumstances justifying his or her residency within the territory of the Republic of Poland,

14) is a family member of the family of a foreign national referenced in point 13, with which foreign national he or she was present within the territory of another European Union member state, accompanying or intending to join said foreign national,

15) is the victim of trafficking in humans as defined by the framework decision of the Council dated 19 July 2002 on preventing human trafficking, and meets all of the following conditions:

a) is present within the territory of the Republic of Poland,

b) is cooperating with the appropriate authorities to conduct the proceedings on preventing human trafficking,

c) has ceased contacting individuals suspected of conducting prohibited acts related to human trafficking,

16) is to enter or is present within the territory of the Republic of Poland for the purpose of undertaking or continuing daytime university studies or daytime doctoral studies within said territory, also in the event he or she has undertaken university studies within the territory of another European Union member state and intends to continue or supplement such within the territory of the Republic of Poland,

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17) is an academic who is to enter or is present within the territory of the Republic of Poland for the purpose of conducting academic research pursuant to a reception contract for the purpose of implementing a research project concluded with an academic facility approved by the Minister appropriate for academic matters,

18) holds a travel document described in art. 1 paragraph 2 letter a of the Council of Europe (EC) No. 1030/2002 dated 13 June 2002, which establishes a uniform format of travel documents for third country nationals (Official Journal of the European Union, L 157 of 15.06.2002, pp 1-7) with the entry “academic,” issued by another European Union member state if the reception contract for the purpose of implementing a research project concluded with the appropriate academic facility of said state also provides for conducting academic research within the territory of the Republic of Poland,

19) holds authorization to perform employment within the territory of the Republic of Poland upon principles defined in legal acts issued by bodies established pursuant to the Agreement establishing an association between the European Economic Community and Turkey, concluded in Ankara on 12 September 1963 (Official Journal of the European Union L 217 of 29.12.1964, p 3687)

– if the circumstance underlying application for this permit justifies his or her residency within the territory of the Republic of Poland for a period in excess of three months.

### Art. 53a.

1. A Residency Permit for a Set Period of Time may be granted to a foreign national who:

1) within the territory of the Republic of Poland intends to undertake or continue:

- a) education,
- b) professional training,

2) due to family ties, intends to join the Polish national or a national of a European Union member state, member state of the European Free Trade Agreement (EFTA) – a signatory to the agreement on the European Economic Area or Swiss Federation, residing within the territory of the Republic of Poland, or to spend time with him or her,

3) is a member of a clergy, order, or performs a religious function in churches and denominational unions the status of which is regulated by international agreement, acts on the relationship of the state to a church or other denominational union or which operate pursuant to entry in the register of churches and

other denominational unions and his or her presence within the territory of the Republic of Poland is related to the function performed or preparation therefor,

4) shows the existence of other circumstances – if the circumstance which is the foundation for application for the permit justifies his or her residency within the territory of the Republic of Poland for a period exceeding three months.

2. A Residency Permit for a Set Period of Time may be granted to a foreign national present within the territory of the Republic of Poland illegally, if:

1) Polish law requires the foreign national to be present in person before a Polish public authority;

2) an exceptional personal situation requires the foreign national's presence within the territory of the Republic of Poland;

3) the interest of the Republic of Poland so requires;

4) an appropriate authority to conduct proceedings respecting preventing human trafficking finds the foreign national is a likely victim of trafficking in humans as defined by decision of the Counsel dated 19 July 2002 on preventing human trafficking (Official Journal of the European Union L 203 of 1.08.2002, p 1; Official Journal of the European Union Special Polish Edition, chapter 19, t. 6, p 52).

## Annex 6. Bibliography

### List of the most important legal acts

Act dated 13 June 2003 on foreign nationals.

Act dated 13 June 2003 on providing foreign nationals protection within the territory of the Republic of Poland (final version).

Act dated 14 July 2006 on entry into the territory of the Republic of Poland, presence in and departure from said territory of nationals of member states of the European Union and members of their families.

Act dated 20 April 2004 on promoting employment and labor market institutions.

Regulation of the Minister of Labor and Social Policy dated 29 January 2009 regarding issuing a permit for employment of a foreign national (Dz. U. z 2009 r. Nr 16, poz. 84) [*Journal of Laws* from 2009, No. 16, pos. 84].

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Regulation of the Minister of Labor and Social Policy dated 29 January 2009 regarding describing circumstances in which a permit for employment of the foreign national is issued irrespective of the detailed terms for issuing permits for employment of foreign nationals (Dz. U. z 2009r. Nr 16, poz. 85) [*Journal of Laws* from 2009, No. 16, pos. 85].

Regulation of the Minister of Labor and Social Policy dated 30 August 2006 regarding performance of employment by foreign nationals without the requirement to obtain employment permits (Dz. U. z 2006r., Nr 156, poz. 1116, ostatnia zmiana Dz. U. z 2009 r. Nr 21, poz. 114) [*Journal of Laws* from 2006, No. 156, pos. 1116, most recent amendment *Journal of Laws* from 2009, No. 21, pos. 114].

Act dated 12 March 2004 on social assistance.

Act dated 13 October 1998 on the social insurance system.

### List of Internet pages used in drafting this publication

*Urząd do Spraw Cudzoziemców* [Office for Foreigners]: [www.udsc.gov.pl](http://www.udsc.gov.pl)

*Mazowiecki Urząd Pracy* [Mazovian Labor Office]: [www.wup.mazowsze.pl](http://www.wup.mazowsze.pl)

*Mazowiecki Urząd Wojewódzki* [Mazovian Voivodship Office]: [www.mazowieckie.pl](http://www.mazowieckie.pl)

*Ministerstwo Sprawiedliwości* [Ministry of Justice]: [www.ms.gov.pl/](http://www.ms.gov.pl/)

*Państwowa Inspekcja Pracy* [State Labor Inspectorate]: [www.pip.gov.pl](http://www.pip.gov.pl)

Council of Europe: [www.coe.int/T/pl/Com/about\\_coe/](http://www.coe.int/T/pl/Com/about_coe/)

European Court of Human Rights: [www.echr.coe.int](http://www.echr.coe.int)

*Rzecznik Praw Obywatelskich* [Commissioner for Civil Rights Protection]: [www.rpo.gov.pl](http://www.rpo.gov.pl)

*Rzecznik Praw Dziecka* [Commissioner for Children's Rights]: [www.brpd.gov.pl](http://www.brpd.gov.pl)

*Ministerstwo Finansów* [Ministry of Finance]: [www.mf.gov.pl](http://www.mf.gov.pl)

*Ministerstwo Pracy i Polityki Społecznej* [Ministry of Labor and Social Policy] [www.mpips.gov.pl](http://www.mpips.gov.pl)

[www.pit.pl](http://www.pit.pl)

[www.pokrzywdzeni.gov.pl](http://www.pokrzywdzeni.gov.pl)

<http://www.prezydent.pl/nasz-kraj/informacje-o-polsce/>

<http://www.polacy.gov.pl/>

## Publications

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