

Legalisation of employment of foreigners

The provision of work by a foreigner in Poland requires the fulfilment of certain formalities. It is the responsibility of the prospective employer to obtain for the candidate a document legalising the performing of work. The foreigner, on the other hand, should take care of the appropriate residence document.

Legal acts

The regulations concerning the performance of work by foreigners in the territory of Poland are included in various legal acts.

The basic provisions relevant to the legalisation of employment of the foreigners are included in the Act of 12 December 2013 on foreigners and the Act of 20 April 2004 on employment promotion and labour market institutions.

The implementing acts to the aforementioned laws (pl. rozporządzenia) also contain important regulations - they indicate, inter alia, exemptions from the work permit requirement and details of the documents to be submitted during adminsitrative proceedings.

Currently works on a new act on employment of foreigners (which will replace the employment promotion act of 2004 as regards legalisation of work of foreigners) are in progess. The new regulations are to enter into force on 1 January 2025. The rules on employment of foreigners will not be a subject of revolutionary changes - the key change will be the full computerisation of proceedings

conducted by the authorities. This material contains information based on the up-to-date legislation with comments on the most important changes resulting from the draft act.

Citizenship of the foreigner

The basic issue related to entrusting work to a foreign candidate is the citizenship - this element determines the employer's obligations to obtain an appropriate document legalizing work (or lack of such an obligation).

- citizens of the European Union Member States, EEA countries (Norway, Iceland, Liechtenstein) and Switzerland are entitled to perform work in the territory of Poland without a work permit,
- 2. citizens of Armenia, Belarus, Georgia, Moldova and Ukraine benefit from a simplified mode of legalisation of employment they may perform work on the basis of a registered statement of entrustment to perform work.
- 3. citizens of Ukraine may also be employed on the basis of a **notification addressed to the labour office** this facilitation will be in force until 30 September 2025 in

- accordance with the provisions of the Act of 12 March 2022 on assistance to citizens of Ukraine in connection with the armed conflict on the territory of that country (this deadline may be extended).
- 4. employment of citizens from other third countries requires a work permit.

Legal work = legal work + legal residence

For the legal provision of work in Poland, it is necessary to have both work and residence legalisation documents. It is highly important that the employer has the documents confirming both the legal employment and the employee's residence and keeps them up to date (copies of these documents should be kept in the personnel file of the foreign emoloyee). Failure by the employer in this respect may render the employer liable for illegal employment of foreigners.



Legalisation of employment of foreigners

Who is exempt from having a work permit?

There are **numerous exemptions from the obligation to obtain a work permit.** For example, the possibility to provide work without a work permit applies to:

- students/doctoral students of full-time studies held in Poland.
- graduates of secondary schools, full-time higher education studies or full-time doctoral studies at Polish universities.
- research workers employed at research institutes,
- foreign language teachers who work in kindergartens and schools,
- doctors, dentists, nurses, midwives and paramedics who have the right to practise their profession in Poland in accordance with the provisions of the professional acts.

The exemption from the work permit requirement is taken into account during the proceedings for the issuance of the relevant document legalising the stay (in the proceedings for

the issuance of a work visa before a consul or the issuance of a temporary residence and work permit). From the employer's point of view, it is important to verify whether the candidate benefits from the work permit exemption.

When is a work permit required?

A work permit is required in the case of:

- intention to entrust a foreigner with work (regardless of whether the work is to be performed on the basis of an employment contract or a civil law contract) by an entity whose registered office or place of residence or a branch, facility or another form of organised activity is located on the territory of Poland,
- 2. performing functions in the management board of a legal person entered in the register of entrepreneurs or being a capital company in organisation, or in connection with managing the affairs of a limited partnership or a limited joint-stock partnership as a general partner, or in connection with granting a commercial power of attorney (pl. prokura), if the foreigner stays on the territory of Poland for a period exceeding in total 6 months within the consecutive 12 months,

3. performing work in the territory of Poland for a foreign employer under the conditions of posting in the framework of the provision of services (in accordance with the Act of 10 June 2016 on the posting of workers in the framework of the provision of services).





Legalisation of employment of foreigners

Work permit

A work permit is an administrative decision issued by the regional authority - voivoide (pl. wojewoda) at the request of the entity entrusting the work.

A foreigner may start performing work only after this decision has been issued (provided that his/her stay in Poland is also legal).

The full procedure for legalising the employment of a foreigner on the basis of a work permit generally involves 2 stages:

- submission of an offer by the employer to the labour office (the so-called labour market test) - after checking the available databases, the labour office issues a relevant certificate, which is a necessary attachment to the application for a work permit - the labour market test precedes the submission of a proper application to the voivodeship office.
- 2. submission of a proper application for a work permit to the voivode competent for the seat of the employer.

The regulations provide for a number of exceptions to the

obligation to carry out the labour market test (stage 1) - thanks to this, employing a foreign candidate may prove to be quicker. In any case, it should be verified whether a labour market test is required.

It should be also pointed out that, according to the draft new law on the employment of foreigners, the first step described above will be cancelled - there will be no need fot the employer to submit an offer to an employment office after new law comes into force.

Temporary work permit is granted for a period of work on the territory of the Republic of Poland not longer than 3 years.

It is very important that the work permit only authorises work to be performed for the employer indicated in the administrative decision granting the work permit - a change of employer also requires an amendment of the decision or applying for a work permit for another entity.





Legalisation of employment of foreigners

Statement on entrustement of work

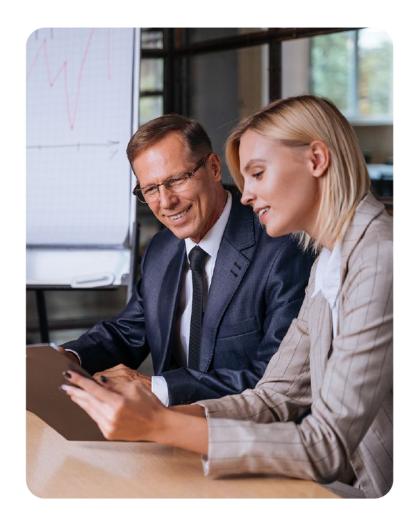
In the case of the intention to employ **citizens of Armenia**, **Belarus**, **Georgia**, **Moldova and Ukraine**, a simplified legalisation procedure is available - the employer may submit to the labour office an application for entering the statement on entrusting work into the register of statements. A registered statement on entrusting work will legalise the employment of a **foreigner for a maximum period of 24 months**; it will also allow the foreigner to obtain a work visa (if the foreigner needs such a document).

Notification of entrustment of work to citizens of Ukraine

Citizens of Ukraine may be employed on the basis of a notification of entrustment of work if, in accordance with the provisions of the Law of 12 March 2022 on assistance to citizens of Ukraine in connection with armed conflict on the territory of the country.

The entitlement to perform work on the basis of a notification is granted under the following conditions:

- 1. the citizen of Ukraine legally resides in the territory of Poland,
- the employer notifies, within 7 days from the date of taking up employment by a citizen of Ukraine, the district labour office competent for the seat (place of residence) of the entity on entrusting work to that citizen;
- 3. the working time is not less than that indicated in the notification or the number of hours is not less than that indicated in the notification;
- 4. the citizen of Ukraine shall receive remuneration at a rate not lower than that specified in the notification or set at the rate specified in the notification, proportionally increased if the working time or the number of working hours is increased;
- 5. the remuneration that the Ukrainian citizen receives meets the requirements set out in the minimum wage legislation.





Legalisation of employment of foreigners

When should a document legalizing work be obtained?

If the candidate is not staying in the territory of Poland, the employer should obtain a work permit or register a statement on entrusting work before his/her arrival (the presentation of a work permit or registered statement on entrusting work is a condition for the issuance of a work visa).

The employer should also take care to obtain a document legalising the foreigner's further work due to the expiry of the work permit or statement of entrustment - the application for the extension of the permit or the submission of a new statement of entrustment should be made on the last day of the deadline.

Who obtains the document legalizing employment?

The legalisation of employment in any case is **the** responsibility of the prospective employer - it is the employer who applies for the registration of a statement of assignment of work or for a work permit (it also notifies the conclusion of a contract with a Ukrainian citizen). The employer also submits an application for the renewal of the residence title (application for a further work permit or registration of a further statement in the register of statements).

A foreigner may also apply for the issuance of a single work and temporary residence permit (in which both the foreigner's stay in Poland and his/her employment are legalised), but this document is never the first one to legalise the foreigner's work.

Where and how should the application be submitted

The competent authority for submitting an application for a relevant document is determined by the seat (place of residence) of the employer - in the case of applications for a work permit, it is the voivode, and in the case of declarations of entrustment of work - the district labour office.

The notification on entrusting work to a Ukrainian citizen is submitted only electronically via the portal praca.gov.pl.

The employer may submit applications for a work permit or entry of a statement on entrystment of work into the register of statements electronically - however, a qualified electronic signature or an ePUAP profile is required to authorise the application. If the employer does not have a suitable authorisation tool, it is possible submit the application in paper form (or give a power of attorney to a person who has such a tool). If an application for a work permit is submitted electronically, paper documents must be delivered to the office (either following the application or at the request of the authority). Applications may also be submitted through an attorney - the attorney may be any person.

As indicated at the outset, the new law on the employment of foreigners will provide for applications (as well as communications with authorities) to be made exclusively in electronic form.



Legalisation of employment of foreigners

How long does the procedure take?

Proceedings for the issuance of a work permit should conclude with a decision within a maximum of 60 days from the date of submission of a complete (duly supplemented) application. However, due to differences in the inflow of applications to individual voivodeship offices, the waiting time for issuance of a work permit may extend to several months.

The declaration on the entrustment of work is entered in the register of declarations within 7 days.

Notification of the entrustment of work is made automatically when the application is submitted via the IT website praca.gov.pl.

How much does it cost to submit an application?

The fee for submitting an application for a permit is: **PLN 100 (if the foreigner's employment is to last longer than 3 months)** or PLN 50 (if the foreigner's employment is to last no longer than 3 months).

Only in the case of employment of a foreigner delegated to the territory of Poland for the purpose of export service provision, the fee is PLN 200.

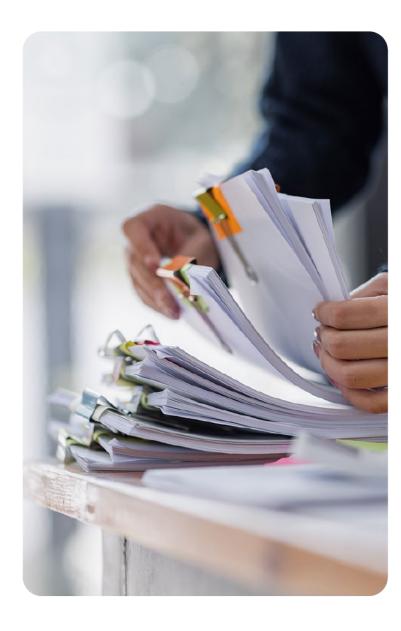
The fee for the registration of the declaration on entrusting work to a foreigner is **PLN 100.**

The fee for registering a statement on delegation of work to a foreigner in the register of statements is PLN 100. The notification on entrusting work to a Ukrainian citizen is free of charge. If the application is submitted through a proxy, a stamp duty of PLN 17 is required.

The sworn translation of documents to be attached to the application (e.g. university diplomas, CVs) should also be taken into account as essential costs of the legalisation proceedings (it should not exceed few hundred PLN).







Legislation of stay in Poland

A foreigner may start working in the territory of Poland only if the stay on this territory is considered legal.

Visa-free travel

The first title that allows to start working in Poland is **visa**-free travel rules based on European Union law.

Currently, the European Union has agreements with approximately 60 third countries, which allow to exercise the right of residence without the need to obtain a visa (the list is available at:

https://www.consilium.europa.eu/pl/infographics/euvisa-agreements-with-non-eu-countries/#0).

The visa-free regime allows a foreigner to reside on the territory of Schengen area (including Poland) for a period of 90 days within consecutive 180-day periods). If a foreigner enjoys a legal stay under the visa-free regime and the employer has obtained an appropriate title of employment (has registered a declaration of employment or has obtained a work permit), the provision of work is possible within the limit of days of the visa-free regime (maximum 90 days). If the foreigner intends to stay in Poland for a longer period of time, he/she should apply for a temporary residence and work permit before the limit is used.

From mid-2025 (although this date may still be delayed), a new obligation will be imposed on citizens of countries covered by the visa-free regime - they will need a prior ETIAS travel authorisation to enter the Schenegen area.

The ETIS authorisation will be valid for 3 years or until the expiry date of the travel document registered at the time of application (e.g. passport), whichever is earlier. It will be possible to submit an ETIAS application online, via the official ETIAS website. Each application will be subject to a fee of EUR 7. There will also be a 6-month transitional period during which those without ETIAS authorisation but who meet all other entry conditions will not be refused entry. The IT system for handling applications is currently still being developed.



Legislation of stay in Poland

Schengen Visa & National Visa

Next title that allows citizens of countries not admitted to visa-free travel to stay is a visa - either a Schengen visa ('C' visa) or a national visa ('D' visa).

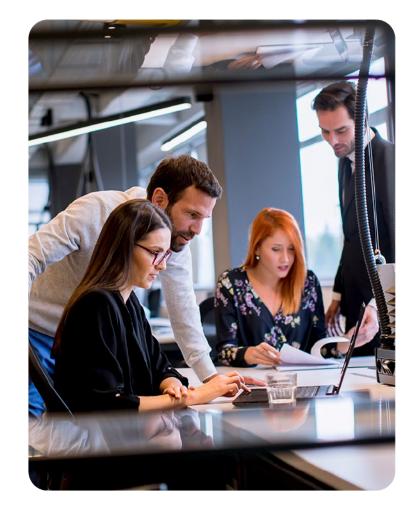
The Schengen visa is a **short-stay visa** (it allows a stay of no more than 90 days on the territory of all Schengen countries during any 180-day period). The national visa allows for **a longer stay - up to a maximum of 12 months.**

Both Schengen and national visas entitle the foreigner to enter Poland and to stay there continuously or to several consecutive stays therein. The national visa may be extended only in exceptional situations. As a rule, Schengen and national visas are issued for the purpose of the foreigner's work, however, each visa (excluding visas issued for tourist purposes) allows the foreigner to perform work (e.g. a visa issued for the purpose of study or research). In general, however, the primary type of visa under which the provision of work takes place is the work visa (in the case of visas issued for other purposes, the possibility to provide work is a subsidiary entitlement).

A foreigner applies for a national or Schengen visa at the

Polish consulate office with jurisdiction over his/her place of residence (permanent stay). **Visa applications are submitted in person**. In order to make an appointment, it is necessary to book an appointment in advance via www.e-konsulat.gov.pl. It is also possible to use the VFS visa application service: https://visa.vfsglobal.com/chn/pl/.

A work visa is issued on the basis of a work permit/registered declaration of entrustment of work obtained by the employer (this document is an annex to the visa application). The employer should provide the foreigner with one of the copies of the document obtained so that the foreigner can submit the document with the visa application. If the foreigner can perform work without a permit (he/she is exempt from having one), the circumstances justifying the exemption should be documented.





Legislation of stay in Poland

Temporary residence permit

Another (and target in the case of longer employment in Poland) residence title is a temporary residence permit - a foreigner applies for the permit at the voivodeship office competent for the place of residence, at the latest on the last day of the visa-free period or of the work visa validity period.

Most often a foreigner applies for a single residence and work permit, which allows the issues related to prolongation of the legal stay and continuation of work in Poland to be taken into account within one decision. However, each temporary residence permit (with two rare

exceptions) constitutes a residence title enabling the provision of work in Poland.

The document confirming the issuance of a temporary residence and work permit is the issue of a residence card with the annotation "access to the labour market". The residence card is issued without an additional application from the foreigner by the voivod who issued the single permit. During its validity period, the residence card confirms the identity of the foreigner during his/her stay in the territory of Poland and entitles him/her, together with the travel document, to cross the border multiple times without the need to obtain a visa.

Visa or residence card issued by another Schengen area country

A visa or a residence card issued by another Schengen area country is also a residence title allowing the foreigner to start performing work in Poland (provided they hold a work permit). Performing work on the basis of a foreign residence permit is possible for a maximum of 3 months if the foreigner intends to continue working, they should apply for a unified residence and work permit.





Single (uniform) residence and work permit

The provisions provide for the possibility for a foreigner to obtain a document legalising residence and work in a single administrative procedure.

A single residence and work permit is applied for by the foreigner and onlythe foreigner s a participant of this procedure. The single residence and work permit is the document most often requested by foreigners due to the expiry of the residence period under the visa-free regime or the validity of a work visa. This permit is also granted to foreigners intending to take up or continue work consisting in performing functions in the management board of a joint stock company or a limited liability company whose shares they do not hold, or acting as a proxy of such companies (in this case the entity they manage or will manage or represent should meet additional requirements).

From the foreigner's point of view, it is extremely important to meet the deadline for submitting the application - it should be done no later than on the last day of legal stay on the territory of Poland. If the foreigner is even one day late, the authority will refuse to issue the temporary residence and work permit, which will result in the necessity to leave the territory of Poland.

The foreigner submits the application for the single permit to the authority (voivode) competent for the place of his/her permanent residence (not according to the place of the registered office/residence of the employer) in person or by mail (the postmark date counts).

In the course of the proceedings for the issue of a uniform permit, the foreigner is obliged to provide fingerprints for the purposes of issuing a residence card - this may take place during a visit to the voivodship office on the day the application is submitted or at a later date set by the authority. If the foreigner does not appear in the office to submit fingerprints when summoned by the voivod, the application for the permit will be left unprocessed.

The application is submitted on a form and requires the attachment of documents confirming the circumstances justifying the issuance of the uniform permit (e.g. copy of a work contract, work permit, passport).

In the procedure for the issuance of the single permit, it is the employer's obligation to submit a document confirming the conditions of employment together with a statement on the employer's clean criminal record for offences related to the employment of foreigners - this document is an essential annex to the foreigner's application. This document must be signed personally by the employer's representatives.

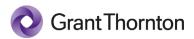
It is important that the procedure in which the application includes the issuance of a residence and work permit for the same employer for the same position is simplified - the foreigner is not required to submit a labour market test certificate (confirming the lack of possibility to employ an

unemployed person for the given position).

Although the legislation stipulates that a decision on the singlepermit should be issued within 60 days from the date of finalisation of all formalities (i.e. submission of fingerprints, completion of documents), these deadlines are often not met by the offices. The foreigner has to reckon with the fact that the waiting period may be as long as several months. During the proceedings (while waiting for the single permit to be issued), the foreigner may perform work under the existing conditions. However, he/she cannot leave the territory of Poland - his/her stay in the territory of Poland is considered legal until the voivod issues a decision, but he/she does not have a title entitling him/her to cross the border.

Once the uniform permit has been issued, the foreigner will receive a **residence card** - this is an identity document which allows the foreigner (together with a valid passport) to cross the Polish border.

The fee for applying for a uniform permit is **PLN 440**; an additional fee of **PLN 50** is charged for issuing the residence card.



UE Blue Card

The legislation provides for a special type of temporary residence and work permit for highly skilled workers - this is the so-called EU Blue Card.

The EU Blue Card concerns foreigners with **higher professional qualifications**, i.e. employees who:

- hold a university degree (of at least three years' duration) in a subject relevant to the job at hand, or
- have at least 5 years' professional experience at a level comparable to the level of the post-secondary qualification required for the job

In addition, the conditions require foreigner to conclude an employment contract or a civil law contract with a Polish employer for a period of at least 12 months. It means that, if the contract is concluded on the basis of the first work permit obtained by the employer, the foreigner may then just apply for the EU Blue Card.

The additional condition for applying for a EU Blue Card is that the contract under which the work is performed/services are provided provides for a certain level of remuneration - the gross annual remuneration resulting from the monthly or annual salary indicated in the contract is not lower than the equivalent of 150% of the amount of the average remuneration in the national economy in the year preceding the submission of the application for a EU Blue Card announced by the Chief of the Central Statistical Office.

The proceedings should include a labour market test (i.e.

confirmation of the lack of possibility to employ an unemployed person at a given position). However, such confirmation is not required if the foreigner's application includes the issuance of the UE Blue Card for the same employer and for work at the same position, or if the foreigner has previously held the Blue Card for 2 years.

The Blue Card may be changed at any time at the foreigner's request if the foreigner intends to start working for a different entity than the one specified in the permit, intends to change the position or will be paid less than the one specified in the permit.





Other cases requiring a work permit

The obligation to obtain a work permit also applies to managers in capital companies and posted employees.

Performing the function of a member of the management board or proxy in a capital company

The performance of the function of a member of the management board or a proxy in capital companies also requires an appropriate work permit. If a foreigner will be a member of the management board of a capital company or its proxy, but will not hold shares in the company, the appropriate type of permit will be a single residence and work permit. If, on the other hand, the foreigner will be a shareholder at the same time, he/she should apply for a temporary residence permit for the purpose of business activity.

A characteristic feature of this permit is that its granting is subject to a current assessment of the condition of the business activity, including in terms of income generation and impact on the local labour market, or the possibility of accepting a projection as to the fulfilment of one of these conditions in the future, including in connection with the consideration of investments, assessment of the innovation of the activity, its technological advancement and the creation of jobs in the labour market.

The authorisation shall be for a minimum period of more than 3 months, but no longer than 3 years.

Performing the function of a member of the management board or proxy in a capital company

A frequently used mechanism by employers to enable a foreigner to temporarily perform work in another EU country (also EEA and Switzerland) is posting. This is done pursuant to the Act of 10 June 2016 on the posting of workers in the framework of the provision of services. It should also be borne in mind that the posting rules set out in the aforementioned act appl ynot only to foreigners who have been sent to work by an EU, EEA or Swiss employer, but also by the posting entity from third country.

As a general rule, the period of posting can be a maximum of 12 months (and in special cases can be extended to 18 months).

As a rule, Poland is among the countries sending employees to other EU member states, however, an employee of a foreign employer may also be posted to perform work in Poland. In such a case, from the point of view of the legalisation of the posting, the obligation to obtain a special work permit (depending on the type of posting, it is a type C, D or E permit) is relevant.

This obligation occurs in the following situations:

- if a foreigner employed by a foreign employer under a
 posting to a branch, establishment or affiliate of that
 foreign employer with its registered office in the
 territory of Poland performs work for a period
 exceeding 30 days (in such a case, a type C permit
 should be applied for),
- 2. if a foreigner employed by a foreign employer without a branch or an establishment in the territory of Poland is posted to perform a service of a temporary and occasional character (export service) (in such a case apply for a D-type permit);
- 3. if the foreigner is posted to Poland for a period exceeding 30 days within the consecutive 6 months for any other purpose of employment than listed in points 1) and 2) above (in such a case apply for an Etype permit).



Legalisation of the residence of family members of foreigners

Regulations allow family members of foreigners legally residing in Poland to apply for family reunification.

A special temporary residence permit may be issued for:

- a foreigner's spouse (the marriage must be recognised by Polish law);
- A foreigner's minor child (who is under 18 years of age on the date of filing the application) - biological, adopted or other child dependent on the foreigner and over whom the foreigner exercises actual parental authority.

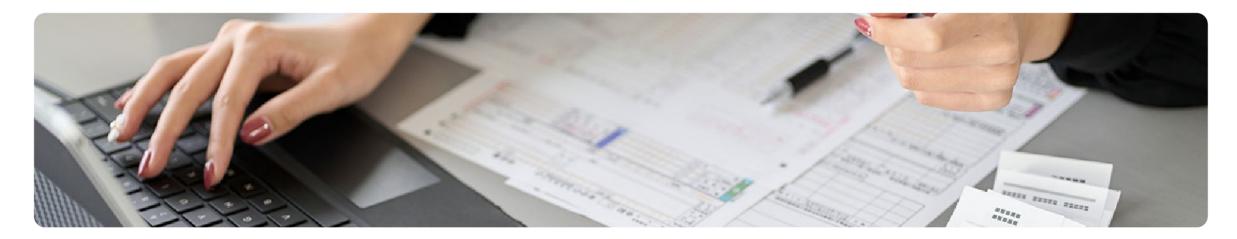
The condition for reunification with the family is that the foreigner holds an appropriate residence title. The

catalogue of titles is quite broad, however in this respect the most common will be the temporary residence and work permit (one or another) which legalises the foreigner's stay in Poland for a period of 2 years or the EU Blue Card.

If the foreigner (spouse or child) resides outside Poland, the application for a temporary residence permit for the purpose of family reunion is submitted by a foreigner residing in Poland - in this case a written consent of the person concerned is required (the consent is the same as granting a power of attorney to act on behalf of the family

member in the proceedings for granting a family reunion permit). The decision is forwarded to the foreigner - on its basis it is possible to obtain the appropriate visa.

If a foreigner does not meet the conditions for applying for family reunification permit (in particular if he/she resides in Poland on the basis of a visa or a temporary residence permit for a period shorter than 2 years), it is possible to apply for a temporary residence permit issued due to other circumstances.





Conducting business activity by foreigners

Certain group of foreigners may also carry out individual business activities on the basis of the rights of Polish (and EU) citizens

The option of conducting individual business activity in accordance with the provisions of the Act of 6 March 2018 on the principles of participation of foreign entrepreneurs and other foreign persons in economic turnover on the territory of the Republic of Poland is also available for foreigners.

However, this option is only available to a small group of citizens. While EU citizens may undertake individual economic activity and carry out economic activity on the territory of the Republic of Poland on the same basis as Polish citizens, citizens of third countries must hold an appropriate residence title in order to carry out such activity.

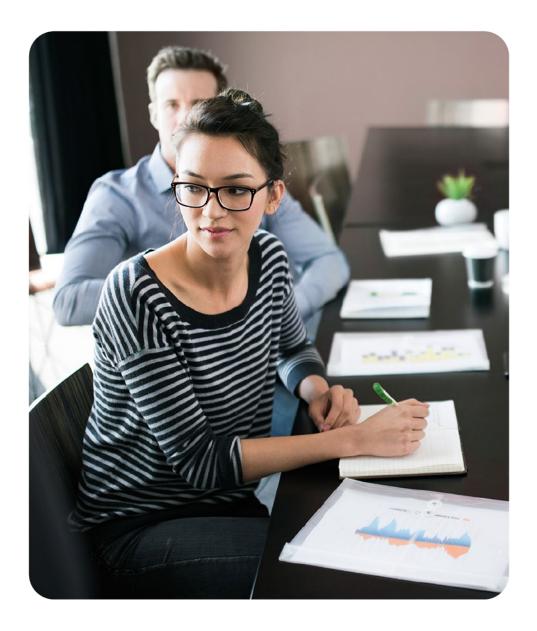
Apart from titles of indefinite validity (e.g. permanent residence permit, long-term EU resident's permit), the title referred to in the provisions of the aforementioned act will be a temporary residence permit for the purpose of

carrying out business activity, granted due to continuation of economic activity already carried out on the basis of an entry in the Central Register and Information on Economic Activity (PL. Centralny Rejestr Ewidencji i Informacji o Działalności Gospodarczej). Thus, the provision assumes the possibility of issuing a temporary residence permit for the purpose of performing economic activity only as a continuation of the previously started economic activity.

In contrast, the possibility to undertake economic activity on the basis of the rules applicable to Polish citizens is available only to citizens of the following countries: the United States, Switzerland (based on international agreements concluded by Poland) and Ukraine (of 12 March 2022 on assistance to citizens of Ukraine in connection with the armed conflict on the territory of that country).







Obligations of EU citizens

The right to work in any EU country without a work permit is a major convenience. However, EU citizens are not exempt from certain formalities related to their longer stay in the country of work.

An EU citizen may stay in the territory of the Republic of Poland for a period of up to 3 months - if the stay lasts for a period longer than 3 months, the citizen of the EU is obliged to register his/her stay in Poland.

Registration of stay takes place at the request of the EU citizen. The application shall be submitted in person, not later than on the day following the lapse of 3 months from the date of entry into the territory of the Republic of Poland.

If the foreigner is accompanied by family members, they should also register their stay in Poland.



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Magdalena Marcinkowska Partner

T +48 607 665 729 E magdalena.marcinkowska@pl.gt.com

Labour law services | How can we help?

In order to meet market expectations, we would like to present our offer of services related to legalisation of employment of foreigners in Poland - our goal is to assist you in the processes of legalisation of employment, to carry out the procedure eiciently and to obtain the necessary documents to facilitate employment in accordance with the applicable regulations.

- Analysing a foreigner's formal and legal status in relation to employment opportunities in Poland,
- Indicating available employment options,
- Obtaining information on the local labour market,
- Completing documentation and ordering certified translations,
- Completing and submitting the necessary applications for obtaining the appropriate documents legalising the stay of a foreigner, in particular, work visas,
- Obtaining documents legalising the stay of family members of non-EU foreigners,
- Liaising with administrative authorities,
- Representing employers and foreigners in legalisation proceedings,
- Registering the residence of EU employees and their families in Poland,
- Providing information on obtaining a residence card.

We are also able to assist you in other, less standard, matters related to legalisation of residence and work.



Jolanta Zarzecka-Sawicka Partner, Attorney-at-law

T +48 885 661 238 E jolanta.zarzecka-sawicka@pl.gt.com

