

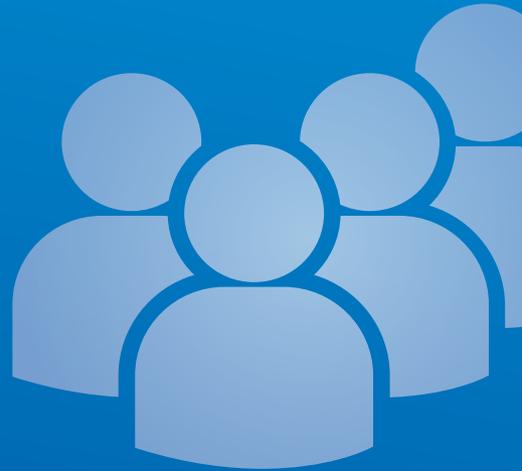


Dać radę  
w Polsce

Informacja i pomoc  
prawna dla migrantów

# Residence Legalisation and Employment

Jacek Białas, Marta Górczyńska, Małgorzata Jaźwińska,  
Maja Łysienia, Ewa Ostaszewska-Żuk, Daniel Witko





How to Make It in Poland –  
Information Brochure  
for Foreigners

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Helsinki Foundation for Human Rights  
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# How to Make It in Poland – Information Brochure for Foreigners. Residence Legalisation and Employment

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# INTRODUCTION

A foreigner comes to Poland. What next? Regardless the reasons they visit, whether it is tourism, study or employment, they happen to stay for longer. They start a family, get married or remain in informal relationships, have children. It is possible that foreigners come to Poland as undocumented migrants or lose the right to legal residency already during their stay in this country. Every foreigner's situation is different. Sometimes it is difficult to believe that somebody's life can get so complicated. The migration law faces a demanding task: it should answer these challenges.

Our publication is aimed at all foreigners coming to Poland or already staying here. It will also provide a foreign reader with information concerning residence and work permits as well as conclusion of marriage or acquisition of citizenship. The publication allows foreigners to get an overview and understand the most fundamental procedures in relations to their rights in Poland. Special attention has been given to the issue of legalization of residency for foreigners in relation to the recent implementation of new regulations.

The present regulation on foreigners is elaborated in a very comprehensive manner. Due to volume limits of this publication it could not be discussed in its totality. The authors, lawyers of the Legal Assistance for Refugees and Migrants Programme of Helsinki Foundation for Human Rights, focused therefore on the most important in their opinion issues, having in mind those questions and doubts that are most frequently reported by foreigners when they ask for legal assistance. This is why our fact book is a very useful guide to the difficult and complicated system of legal articles regulating the situation of a foreigner in Poland.

It should be remembered, however, that every case is different. No publication will replace a direct individual consultation with a migration lawyer or an integration counselor, especially that migration law is a dynamically growing field and regulations are often amended. Only assessment by a lawyer gives the guarantee that the foreigner will receive full information concerning his or her position in a given situation, at that particular time.

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# I GENERAL INFORMATION ON PROCEEDINGS



## 1. Jurisdiction of Authorities

### *Which authorities should I apply to?*

The application should be submitted to the competent authority having jurisdiction over your case.

I want to obtain	I submit an application to
Temporary residence permit	Governor
Permanent residence permit	Governor
European Union long-term residence permit	Governor
Tolerated residence permit	Chief of Border Guard Division or the chief of Border Guard
Residence permit on humanitarian grounds	Chief of Border Guard Division or the chief of Border Guard
Gaining Polish citizenship	President of the Republic of Poland through the Governor or Consul
Recognition as a Polish citizen	Governor



**NOTE:** The application should be submitted to the territorially competent authority (governor or chief of Border Guard Division), i.e. authority having jurisdiction over your case according to your place of residence.

### *What does it mean that the authority is competent according to the place of residence?*

It means that the authority which will deal with the case will be the authority responsible for considering applications from persons living on the given territory.



**Example:** If you live in Warsaw and wish to apply for a temporary residence permit, you should submit the application to the Governor of Mazovia. And, respectively, if you live in Gdańsk, the same application will be investigated by the Governor of Pomerania.

If you do not know which Governor you should submit your application to, please check which province you live in (There are 16 provinces in Poland<sup>1</sup>). If you live, for instance, in the Lodz province, you should submit the application to the Governor of the Lodz province.

### ***I submitted the application to an incompetent authority. What shall I do?***

Under Polish law the authority to which you have submitted the application is obliged to send your application without delay to the competent authority. You should receive notification from this incompetent authority that your application has been passed to the competent authority. Consequently, you do not need to submit the application in question to the competent authority again.

If you submitted the application to an incompetent authority within the prescribed time limit, it is deemed that it was submitted within due time. This means that if you had a time limit for submitting the application, submitting it within this time limit to another authority will not cause that you will be late with submitting the documents.



**Example: if you received request for submission of evidence within 14 days after serving the notification, and you submitted this evidence on the 13th day but to an incompetent authority, then the competent authority should deem that the documents were submitted within due time.**

### ***Is it possible that a civil servant refuses to accept my application?***

No, civil servant may not refuse to accept your application or any other document, even if the application is considered incomplete, incorrect or unpaid. If you really failed to attach all the required documents to the application, pay the fee or submitted an incorrect form, the authority should accept your application and subsequently summon you to provide the missing documents and pay the fee or submit the application on an appropriate form within the time limit specified by this authority.



**NOTE: If the civil servant refuses to accept any documents from you, you may always send it by mail (by certified mail, or in a letter with proof of mailing) to the authority's address.**



**IMPORTANT: Always respond to summons before the time limit expires, even you still have not gathered all the required documents.**

<sup>1</sup> Voivodeships: Lower Silesia, Kuyavia-Pomerania, Lubelskie, Lubusz, Lodzkie, Lesser Poland, Masovia, Opolskie, Subcarpathia, Podlaskie, Pomerania, Silesia, Swietokrzyskie, Warmia-Masuria, Greater Poland, West Pomerania.

## 2. Proxies

### *May I have a proxy?*

Yes, in every proceeding before administration authorities you may appoint your proxy. It does not mean, however, that you will not have to take part in the proceeding at all. If the authority summons you to come to a hearing, you must appear on it personally. Applications for a permanent residence permit, temporary residence permit or European Union long-term residence permit must be also submitted personally (as it is necessary to take your fingerprints).



**NOTE: You are not obliged to have a proxy.**

### *Who can be my proxy?*

In administrative proceedings your proxy does not have to be a lawyer or an advocate. It may be any other person having capacity to perform acts in law (as a rule it means an adult person: over 18 years of age). The power of attorney should be given in writing, in the form of an electronic document or entered in the minutes. The power of attorney should be attached to the case file, or submitted to the office of the authority dealing with the case or sent by mail (certified mail). On submitting the power of attorney you should pay a stamp duty of 17 PLN. The stamp duty is paid into the bank account of the community or town council where the given authority is located. For example, in cases heard before the Governor of Mazovia or the Head of the Office for Foreigners, the stamp duty is paid into the bank account of Śródmieście District of Warsaw.

### *What are the consequences of having a proxy?*

If you have a proxy, it is the proxy, and not you, that will receive all the letters in your case (decisions, requests to submit documents etc.). Therefore the proxy should notify you about every letter received from the authority. However, if the proxy does not do it, it is you, and not your proxy, that will face all the negative consequences arising from this failure to respond to a letter from the authority.



**Example: If the proxy receives a negative decision issued in your case, fails to inform you about it and does not appeal against this decision, you will lose the opportunity to lodge an appeal.**

The proxy may also undertake all kinds of actions in your case and will be entitled, for instance, to withdraw your application for a temporary residence permit without your knowledge. The proxy will be able to lodge an appeal against a decision without informing you about it.



**NOTE: The choice of proxy is a very serious decision.**

### ***Can I decide not to use the help of the proxy any longer?***

Yes, at any time you may decide not to use the help of your proxy any longer. It suffices to prepare a letter stating that: "I hereby terminate the power of attorney of ..... (here write the name and surname of your proxy) in my case", sign it and submit to the authority before which the proceedings are pending and inform the proxy about your resignation. From the moment of informing the authority about termination of the power of attorney all letters in your case should be sent to you, not to your proxy.



**NOTE: If you lose trust in your proxy or if you cannot keep in touch with him or her for some time, terminate the power of attorney as quickly as possible. In such situation also contact the authority and look over the case file to confirm what its current status is.**

## **3. Deadlines for Handling the Case**

### ***How much time does the authority have to issue a decision in my case?***

As a rule authorities should consider your application within 1 month from the date of receiving the application or 2 months if the case is complicated. The appeal proceeding, in turn, is supposed to last 1 month. In some cases legal regulations allow longer terms of settling the case (e.g. proceeding in the case of granting a permanent residence permit should end no later than within 3 months from the date of its initiation whereas the appeal proceeding within 2 months from the date of receiving the appeal).

Every authority may, however, prolong the period of considering the case. In such situation the authority should inform you about causes of the delay and specify a new date of settling the case.

### ***What can I do when the authority does not issue any decision in my case despite the fact that the term has expired?***

You may file a complaint concerning failure to settle the case within due time or lingering proceedings to a higher authority (e.g. the Head of the Office for Foreigners for the Governor's failure to issue a decision concerning a temporary or permanent residence permit within due time), and if such authority does not exist, you may lodge a request to remedy the infringement to the authority conducting proceedings in the case.

If the authority considers that the complaint is justified, an additional term for settling the case will be appointed and it will be ordered to explain the reasons and persons responsible for the failure to settle the case within due time. It is also possible that measures preventing violations

of deadlines for settling cases in the future may be taken. At the same time the authority states if failure to settle the case within due time was accompanied by gross violation of law or not.



**NOTE: While your complain concerning failure to settle the case within due time is considered, the examination of the case is not continued.**

## 4. Service of Documents

### *In what way will the authority serve the decision in my case to me?*

Official letters are served:

- ✓ via mail;
- ✓ by the authority's employees;
- ✓ by other authorized persons or authorities;
- ✓ electronically.

In practice, you will normally receive the decision by mail or you will have to collect it in person in the office of the authority.



**NOTE: If you have a proxy, the proxy will receive all the letters in your case.**

### *Will the authority send me the decision to another country?*

No, the authority will not send you any letters abroad. It will send you only one letter informing you that if you have not appointed a proxy living in Poland to deal with your case, you must appoint a proxy for services in Poland. Letters may also be sent to you by electronic mail.

If you do not appoint a proxy for services, the authority will not send you any letters abroad. Letters for you will remain in the case file and will be deemed served (as if you had received and answered them).

### *I changed the place of residence during the proceedings. What now?*

Inform the authority about any changes of residence as soon as possible. If you fail to do that, the authority will send all the letters regarding your case to the previous address of residence.

### *What will happen if you are not at home and the mail is undelivered?*

If the postman delivering a letter from the authority does not find you at home:

- ✓ the letter can be left with an adult household member (housemate, family member), neighbour or caretaker as long as these people have undertaken to pass this letter to

you. You should be informed about passing the letter to them through a notification left in your mail box or in the flat door. Remember, nevertheless, to ask regularly your house-mates or family members living with you if they received any letter addressed to you;

- ✓ a notification (advice note) can be left in your mail box informing you that you may collect the letter at the post office within 7 days after the date given in the notification. To collect the letter from the post office you need to have an identification document (e.g. passport, residence card) with you. If you fail to collect the letter from the post office within due time, the postman will try to deliver it to you once again and leave the second advice note in your mail box, informing you on the possibility of collecting the letter within 14 days after the date of the first notification. If you fail to collect the letter from the post office within this time, it will be sent back to the authority. In such situation the letter will be deemed served on the last day of the period for letter collection.



**NOTE: Always collect all the letters from the post office on time. This will allow you to avoid a situation when the letter is deemed served despite the fact that you have not received it.**

### *What will happen if I refuse to receive an official letter?*

If you refuse to receive a letter from the postman, it will be sent back to the authority with a note that you refused to accept it. The authority will deem that the letter was served effectively on the day when you refused to accept it. From that date, for instance, the time limits for lodging an appeal will start running.



**NOTE: Do not refuse to accept an official letter from the postman. Failure to accept the letter does not mean that it will not exert consequences in relation to you. You may lose a chance to reply to the authority's request or lodge an appeal against a decision.**

## **5. Perusal of the Case File**

### *When am I entitled to peruse the case file?*

You are entitled to peruse the case file, make notes, copies and extracts from them free of charge both during the proceedings and after they have been closed. You may also take photographs of the case file.

Remember that making a photocopy of the case file by the authority at your request is usually provided at a charge. Perusal of case files always takes place in the presence of a civil servant.

It is worth perusing case files in particular in the situation when you decided not to use the help of your proxy any longer in order to get to know what the current status of the case is.

## 6. Appeals

### *I got a negative decision. What next?*

You may lodge an appeal against a decision issued by the authority of first instance to the appeal authority.

<b>Decision (or resolution) concerns:</b>	<b>The authority of first instance is:</b>	<b>The appeal will be considered by the appeal authority:</b>
Temporary residence permit	Governor	Head of the Office for Foreigners
Permanent residence permit	Governor	Head of the Office for Foreigners
EU long-term residence permit	Governor	Head of the Office for Foreigners
Tolerated residence permit	Chief of Border Guard Division or the chief of Border Guard	Head of the Office for Foreigners
Residence permit on humanitarian grounds	Chief of Border Guard Division or the chief of Border Guard	Head of the Office for Foreigners
Gaining Polish citizenship	The President of the Republic of Poland through the Governor or consul	Not specified
Recognition as a Polish citizen	Governor	Minister of Interior



**NOTE: It is impossible to appeal against refusal to give Polish citizenship by the President of the Republic of Poland.**

### *Where and within which time do I have to lodge an appeal?*

Appeals are lodged to the competent appeal authority through the authority which issued the decision. Do not send the appeal directly to the appeal authority. Submit it in the authority which issued the appealed decision. Subsequently this authority will send the appeal to the appeal authority.

Appeals are lodged within 14 days after the date of service of the decision. Hence no importance is attached to the date of issuing the decision or the date of sending the decision by the authority. 14 days for lodging the appeal is calculated from the moment of factual receipt of the letter: from the postman (also through, for instance, a housemate), from the post office

or at the authority's office in person. Saturdays, Sundays and public holidays are also calculated in this period. If the last day for lodging the appeal falls on Sunday or any other bank holiday, then the last day for lodging the appeal falls on the following day.



**Example: If the authority's decision was serviced to you by the postman on 5th January 2015, the last date for lodging an appeal is 19th January 2015 (in order to calculate the 14-day period for lodging an appeal you do not count the day on which you received the decision).**



**NOTE: If you do not lodge an appeal within due time, the decision will become final and will be enforceable.**

### ***What decisions may be issued by the appeal authority?***

Upon consideration of your appeal, the appeal authority may:

- ✓ overrule the previous decision and grant you the permit or consent which you applied for - this is a positive decision;
- ✓ overrule the previous decision and discontinue the proceedings (when they are groundless);
- ✓ overrule the previous decision and pass the case for reconsideration to the authority of first instance;
- ✓ uphold the decision of the authority of first instance - this is a negative decision.

## **7. Complaint to the Court**

### ***What can I do when I received a negative decision for the second time?***

If the appeal authority does not take your appeal into account (in other words if it issues a decision on upholding the appealed decision), you may lodge a complaint to the Provincial Administrative Court in Warsaw.



**NOTE: The decision issued by the appeal authority is final and enforceable despite lodging a complaint. Lodging a complaint alone does not stop the decision from being executed.**

### ***Where and within which time am I supposed to lodge a complaint?***

You have 30 days after the date of service of the decision by the appeal authority. The complaint should be lodged to the Provincial Administrative Court in Warsaw via the appeal authority (e.g. in cases concerning residence permits this will be the Head of the Office for Foreigners).

### ***How much does lodging a complaint cost?***

It is necessary to pay the so-called court fee for lodging a complaint to court. In cases of foreigners the court fee is usually 300 PLN. The amount should be paid to the court cashier or by transfer into the court's bank account (the account no. of the Provincial Administrative Court in Warsaw can be found on [www.warszawa.wsa.gov.pl](http://www.warszawa.wsa.gov.pl))

If you do not have enough money to pay the court fee, you may file an application to the court concerning exempt from court fees. The application should be filed on a suitable form which may be obtained in court. This application may be submitted together with the complaint or during court proceedings.

### ***Do I have to be represented by a proxy in court?***

No, you do not need to be represented by a proxy before the Provincial Administrative Court in Warsaw. However, if you want a proxy, it can only be a lawyer, legal counsel or some members of your family.

If you think that you need help of a proxy during court proceedings and you do not have money to pay for such service, you may ask the court to appoint a public (free of charge) lawyer or a legal counsel for you. The application should be completed on a suitable form which can be obtained in court. This application may be submitted together with the complaint or during court proceedings.

### ***Can I stay in Poland in the course of the court proceedings? May the court grant me permission or consent for residence?***

Lodging a complaint alone does not legalize your stay in Poland or prolong the validity of the stamp. The court may suspend execution of the decision issued in relation to you, yet it does not happen automatically.

In accordance with the articles of law you are obliged to leave Poland within 30 days after the date of serving the decision by the appeal authority on refusal to grant you temporary residence permit /permanent residence permit / European Union long-term residence permit or withdrawal of any of these permits irrespective of the fact of lodging a complaint. Then you will not suffer the negative consequences, such as receiving a decision on the obligation to return or a ruling on a ban to come to Poland.

If you cannot leave Poland, however, and you think that you were unduly refused the permit, then contact a lawyer from a non-governmental organization who will refer to your legal situation in detail.

The court may not issue a decision on granting you a permit or consent for residence which you applied for. It can merely overrule the decisions which you appealed against. In this situation your case will be reviewed by administration authorities.

### ***The court overruled my complaint. What next?***

First you must submit an application concerning preparation of reasons for the judgment and servicing the judgment together with reasons for the judgment. You have 7 days after the date of announcing the judgment to submit such an application (the fee for the application is 100 PLN and is paid to the court cashier of the Provincial Administrative Court in Warsaw or into the bank account of this court).

If the Provincial Administrative Court in Warsaw overruled your complaint, you may lodge a cassation appeal against this judgment to the Supreme Administrative Court. You cannot lodge this appeal on your own: this must be done by a lawyer or legal counsel on your behalf.

Your proxy has 30 days to file a complaint after the date when the judgment together with reasons for the judgment was serviced to the proxy or to you.

## II TEMPORARY RESIDENCE PERMIT



Temporary residence permit is a kind of residence permit which you may apply for when your visa expires (or the previous temporary residence permit), and you are still planning to stay in Poland. As a rule you should then present the circumstances which justify your stay of at least 3 months in Poland. Such a permit is issued for the period of maximum 3 years.

Requirements connected with obtaining a temporary residence permit are diversified: they depend on the reason why you want to stay in Poland (your studies, running a company, staying with your family, seeking employment). This is why the points presented below will provide you with information concerning the most frequent, according to the authors, circumstances which form basis for obtaining a temporary residence permit in Poland, considering also some special situations. First, however, one should get acquainted with general issues which concern all temporary residence permits in Poland, irrespective of the reasons why they were granted.

### 1. General Questions

#### *Do I have to stay legally in Poland in order to apply for a temporary residence permit?*

As a rule yes. You must submit an application for a temporary residence permit no later than on the last day of your legal stay in Poland (e.g. on the basis of a visa, previous temporary residence permit or within visa-free travel).



**OUR ADVICE:** Do not wait until the last day, put in your application in advance to avoid stressful situations.



**EXCEPTION:** there are a few circumstances in which you may be granted a temporary residence permit despite the fact that you stay in Poland illegally (see the chapter concerning permits issued in special situations, page 34).



**REMEMBER:** You have no possibility to apply for a temporary residence permit if at the same time you apply for the status of a refugee in Poland. The governor will refuse to initiate proceedings concerning granting you a temporary residence permit.

### ***What is a stamp and what rights does it give me?***

If you submitted your application within due time and it does not contain any formal defects (or you removed them within due time), the governor shall place a stamp in your travel document. The stamp confirms your legal stay in Poland until the day on which the decision on granting you a temporary residence permit becomes final. This is true about the governor's decision after the period of 14 days (if you did not lodge an appeal in reference to it) or the decision by the appeal authority with the date of service (if you lodged an appeal).

Placing the stamp in your travel document does not entitle you, nonetheless, to cross the border. Having the stamp you may return to your country of origin, but in order to come back to Poland you will need to obtain a visa.

### ***Do I have to submit the application in person?***

Yes, you have to submit the application in person. In the provincial office your fingerprints will be collected. This obligation also refers to children from the age of 6 years.



**EXCEPTION:** This rule does not refer to a member of your family in relation to whom you apply for a temporary residence permit as part of the family reunification procedure. On such a person's arrival in Poland, the family member shall give fingerprints before being issued a residence card (see a chapter connected with reunification of families).

You may also send you application by mail. In such a situation, however, the governor will send you a letter in which he will request you to visit the authority office in person within 7 days (you may also be given a concrete date) in order to take your fingerprints.



**REMEMBER:** There is no possibility of submitting an application for a temporary residence permit if you are not staying in Poland.

### ***How much does issuing a temporary residence permit cost? May I be reimbursed for that charge?***

The stamp duty for issuing a temporary residence permit is 340 PLN. You should pay it prior to or on submitting the application. If you fail to do this, you will be requested by the gover-

nor to pay this charge. You will not receive a permit without making payment of the stamp duty. This refers to all temporary residence permits enumerated in this publication. The charge should be paid into the bank account of the council of the town on the territory of which the provincial office where you submit the application for a temporary residence permit is located.



**NOTE: In the case of issuing a single permit for residence and employment (see a point in this part page 51) the charge is 440 PLN. In turn, in the case of a short-term residence permit, if the vital interest of the Polish state requires your presence or you are obliged to appear in court or any other authority (see a point in this part page 34), the charge is 85 PLN.**



**STAMP DUTY REIMBURSEMENT: Keep a copy of the stamp duty payment. If you fail to receive the permit which you are applying for, you will be able to apply for reimbursement of the amount paid, designating the application to the town council.**

### APPLICATION FOR STAMP DUTY REIMBURSEMENT

I hereby apply for reimbursement of the stamp duty paid on ..... in the amount of 340 PLN on the application for issuance of temporary residence period on the territory of the Republic of Poland by the Governor .....

The reimbursement shall be made:

- in cash in the Office's cash box;
- for the home address: ..... (the reimbursement will be reduced by the cost of the postal order);
- by transfer on the bank account in the .....

Bank account number: .....

#### Grounds for the application

I motivate the application for reimbursement of the stamp duty by receiving the decision of the Governor/Head of the Office for Foreigners no. .... as of ..... on refusal to issue the petitioned temporary residence permit on the territory of the Republic of Poland. This decision is final, which is why I submit petition as above written.

.....  
(signature)



**NOTE: It is necessary for you to sign the document. If you do not do this, it will extend the proceeding time by for reimbursement of the stamp duty, as the authority will summon you to complete the letter. Attach to the letter the proof of payment for the application together with a copy of the decision to the letter.**

### ***Which documents do I have to submit to apply for a temporary residence permit?***

The documents which you should submit applying for a temporary residence permit may differ depending on the grounds of your application. These documents will be discussed in points concerning individual permits and circumstances with relation to which they are issued.

In the case of all temporary residence permits you must submit:

- ✓ an application on the official form;



**The application is available on the website of the Office for Foreigners at:**  
**<http://udsc.gov.pl/cudzoziemcy/obywatele-ue-oraz-eogszwajcarii-i-czlonkowie-ich-rodzin/formularze-wnioskow/>**

- ✓ 4 current photographs of 3.5 cm x 4.5 cm showing your uncovered face;
- ✓ Xerox copies of a valid travel document (passport) and the original to be presented;
- ✓ additional documents, depending on which grounds you apply for the permit, e.g. marriage certificate, work permit, documents confirming stable and regular income or health insurance



**NOTE: The number of required Xerox copies of the application or passport may differ depending on the province.**



**OUR ADVICE: Keep one copy of the completed application for yourself: you will be sure what information you included, and you will know how to fill in the form while applying for another permit.**

### ***What shall I do if I do not have a valid passport?***

In exceptional circumstances if you do not possess a valid travel document (passport) you may present another document as proof of your identity, for instance, a valid residence card. You must, however, demonstrate in front of the governor that you really do not have a possibility of obtaining a passport.

Firstly, therefore, you should go to the embassy / consulate of your country and inquire what conditions you must meet in order to obtain a passport. If you cannot meet these conditions, you must describe in detail the grounds for this situation in the reasons for application for the temporary residence permit. If you failed to obtain any information in writing (or a list of documents which you must submit to obtain a passport) in the embassy / consulate and the civil servant only informed you verbally that you cannot obtain a passport, describe your visit to the embassy/consulate in detail and keep its confirmation of any kind (e.g. keep the

ticket if you went abroad for this reason, go to the embassy/consulate with another person as a witness) so as to make your efforts reliable before the authority.

If the governor recognizes that you really do not have a possibility of presenting a travel document (passport), you must produce an identity document which will identify you in an unambiguous manner (a different document with a photograph and personal details).

### ***Do I have to be registered for residence in Poland?***

Yes, as a rule every person staying in Poland is obliged to be registered in the place of permanent or temporary residence. You are exempted from compulsory registration if your stay in Poland does not exceed 14 days.

Residence registration is free of charge. It is done in the commune authority which is competent in relation to your place of stay. To obtain it you need to hold an identity document (e.g. residence card or passport). Registration of temporary residence up to 3 months is done by you verbally in the presence of the owner or any other entity having the legal title to the premises (for instance, the notarial deed), which also must be produced. In the case of registration for a longer period of time you must additionally submit a residence registration form ("Registration of temporary residence lasting over 3 months" or "Registration of permanent residence") filled in by the owner or any other entity having the legal title to premises.



**IMPORTANT: The lack of residence registration does not form basis for the refusal to grant permits for the types of residence discussed in this publication. If you cannot obtain residence registration, submit a written statement on the grounds for such a state of affairs to the authority conducting the case.**

### ***I have a temporary residence permit. What document am I going to obtain?***

On receiving the decision on granting you the permit you will obtain your residence card. The issuance of the card costs 50 PLN. If you lose or destroy your residence card and as a consequence need a new one, then the charge for replacing it will be 100 PLN. In the case of subsequent culpable loss or destruction the charge will amount to 150 PLN.



**REMEMBER: There is a possibility of receiving a reduction in the amount of the charge for issuing or replacing the residence card. If you are in a difficult financial situation or if you are under 16 years of age you may obtain a 50% charge reduction.**

### ***I have a temporary residence permit. Can I travel freely to other European Union countries?***

As a rule yes but upon meeting certain conditions. Having a residence card you can travel to other countries of the Schengen area for 90 days during all subsequent 180 days counted from the date of the first entry to another country of the Schengen area.

The Schengen area countries include: Austria, Belgium, the Czech Republic, Denmark, Estonia, Finland, France, Germany, Greece, Hungary, Italy, Latvia, Lithuania, Luxemburg, Malta, the Netherlands, Poland, Portugal, Slovakia, Slovenia, Spain and Sweden as well as Norway, Island, Switzerland and Liechtenstein (not belonging to the European Union being in the Schengen area).



**NOTE:** Some EU countries do not belong to the Schengen area, e.g. Great Britain, Ireland, Cyprus.



**REMEMBER:** To travel within the Schengen area you must hold a valid residence card (e.g. passport), justify the purpose and conditions of stay, possess suitable financial means, and you cannot represent a threat to public order and safety as well as or be entered in the national list of foreigners who are denied entry to a given country.



**OUR ADVICE:** Before going to another country for a longer period of time check what precise conditions you need to meet in order not to violate provisions of immigration law in the country. If you wish to work in another country, you are advised to go to the embassy of the country which you want to visit. Employment issues belong to provisions in force in the given country. The residence card issued in Poland does not entitle you to work in another country.

### ***What can I do if I receive a negative decision?***

Provisions of law being basis for not issuing you with a temporary residence permit are quite complicated. The governor may refuse not only to give you the permit, but also to initiate the very proceedings. These circumstances are strictly defined by law and some of these decisions depend on which grounds you apply for this permit.



**OUR ADVICE:** In order to establish if the governor rightly refused to issue you with a temporary residence permit, it will be best if you consult a lawyer or an employee of a non-governmental organization which provides free legal assistance to immigrants. You have 14 days to lodge an appeal so contact the organization as soon as possible so that the lawyer has enough time to prepare the documents. You may, for instance, send the scanned documents via electronic mail (e-mail) or by fax, giving your telephone number. Before the consultation the lawyer will ask you to give your consent in writing for processing of your personal data, to which he or she is obliged, and will subsequently provide you with the explanation of the decision and its consequences and will advise you what you can do. You may also lodge an appeal yourself (see the point appeals in the first part page 19).

## 2. Studies: Temporary Residence Permit Connected with Beginning of Your Studies

### *I am a student. Can I receive a residence permit?*

Yes, you can receive a permit, if you want to start or continue:

- ✓ first-cycle studies (Bachelor or engineer studies);
- ✓ second-cycle studies (supplementary Master studies);
- ✓ third-cycle studies (PhD studies);
- ✓ long-cycle Master studies.

You may also obtain a permit when you want to continue or supplement your studies taken up in another European Union country or when you wish to make a preparatory course to study in Polish.



**NOTE:** All the above-mentioned types of studies must be full-time studies.

### *What requirements do I have to meet and which document shall I submit?*

Apart from standard documents, such as the application, copies of the passport and photographs (see above), you must submit the following:

- ✓ certificate of the educational institution on admission or continuation of studies,
- ✓ proof of tuition fee payment if you take up or continue paid studies;
- ✓ health insurance or confirmation to cover medical expenses in Poland by the insurer,

- ✓ sufficient financial means to cover the costs of living and return journey to the country of origin or residence or costs of transit to any third country which will grant you entry, as well as costs of studies.

### **What does it mean that I have to have sufficient financial means? How much money is it?**

As shown above, the requirement of having sufficient financial means refers to:

- ✓ cost of living;
- ✓ return journey to your country of origin or residence or cost of transit to any third country which will grant you entry;
- ✓ cost of studies.

### **Cost of Living**

If you are in Poland without your family, you must have at your disposal financial means in the amount of at least 543 PLN (or its equivalent in another currency) for every month of your stay for the period of 15 months or, if your stay is shorter than 15 months, for the whole period of your stay. If you came to Poland with a member of your family and if you have to support him or her, you must have means to cover the costs of living in the amount of at least 457 PLN (or its equivalent) for you and every member of your family for every month of your stay for the period of 15 months or for the whole period of your stay.

### **Cost of Return Journey**

As a student or a student-to-be applying for the issuance of a residence permit you must also have a return ticket or means for the potential return journey to your country or countries in which you can stay legally (which would allow you to enter in transit). These means should be equivalent to the cost of the ticket covering your travel to Poland, yet no lower than:

- ✓ 200 PLN, if you came from a country neighboring Poland;
- ✓ 500 PLN, if you came from a country being a member of the European Union;
- ✓ 2,500 PLN, if you came from a country not being a member of the European Union; or the equivalent of these amounts in foreign currencies\*.



**NOTE: If your dependants stay in Poland, you must possess sufficient means to buy tickets for your whole family.**

\* If you have a foreign currency at your disposal, the exchange rate to Polish currency will be calculated according to the average rate of exchange of the National Bank of Poland (NBP) on the last working day preceding the application for temporary residence permit.

Below there is a list of documents which may confirm that you are capable of obtaining financial means to cover the cost of stay and the return journey:

- ✓ a traveler's cheque;
- ✓ a statement on the amount of your credit card limit made out by the bank that issued the credit card made out not earlier than one month before the date of application for a temporary residence permit;
- ✓ a statement on being in possession of means of payment in a bank or cooperative savings and credit union having offices in Poland issued not earlier than one month before the date of application for a temporary residence permit;
- ✓ a document which confirms that you were granted a Polish or foreign scholarship;
- ✓ a certificate of employment and earnings issued not earlier than one month before the date of application for temporary residence permit..

### ***For how long shall I receive temporary residence?***

You will probably get the first temporary residence permit for the period of 15 months or for the period of the academic year or studies, prolonged by 3 months. You will also get a permit for the time of duration of the preparatory course to take up studies in order to study on the first and second-cycle studies or long-cycle Master studies or third-cycle studies, prolonged by 3 months.



**NOTE: The governor will inform the rector of the university or head of any other educational institution running studies which you indicated in the application for the permit. The rector of the university or head of any other educational institution running studies shall without delay inform the governor in writing about expelling you or not passing a year of studies in the specified term.**

### ***Can I work and study?***

When you apply for your first temporary residence permit in connection with your studies the governor may refuse to grant you the permit if you work or conduct a business activity in Poland. This does not refer to the situation when you apply for another permit in order to study. In that situation you may work and study at the same time.

If you are a student granted a temporary residence permit in connection with your studies, you may work in Poland without any permit. If you are a student who stays in Poland e.g. on the basis of the student visa, then you may work without work permit only in July, August and September.

### ***I did not pass a year of studies within due time. What are the consequences?***

Firstly, if you still have a temporary residence permit, the governor may withdraw it. As soon as you receive notification concerning initiation of proceedings to withdraw the temporary residence permit, contact a lawyer from a non-governmental organization.

If, in turn, you apply for another temporary residence permit and you have not passed the previous year of your studies, the governor may refuse to issue you this document.

### ***I finished my studies but I still have not found a job. Do I have to leave Poland?***

No, if you are a graduate of a Polish university and you are seeking employment in Poland, you may receive a temporary residence permit on these grounds. To this end you need to have: the health insurance, place of residence and a source of steady and regular income that is sufficient to cover your cost of living. In this case it is not enough to have financial means on your bank account. You must prove that your account is regularly credited with an amount which is higher than the amount of income which entitles to benefits from the Social Welfare. This means that it must exceed 542 PLN monthly if you have no dependants, and in the case when you have any dependants, the amount must be over 456 PLN monthly per every family member (including you).

You may work in Poland without any permit as a graduate of a Polish upper-secondary school, full-time studies or doctoral studies at Polish universities.

## **3. Business Activity – Temporary Residence Permit Due to Conducting a Business Activity**

### ***When may I obtain a permit?***

Requirements connected with obtaining the temporary residence permit on the basis of conducting a business activity may be divided into two categories:

<b>Requirements concerning your situation</b>	<b>Requirements concerning the business activity</b>
<ol style="list-style-type: none"><li>1. You must have health insurance or confirmation by the insurer in reference to covering medical expenses in Poland.</li><li>2. You must declare that you have a source of stable and regular income sufficient to cover the costs of living for you and any family members who are your dependants; this means that your monthly income should be higher</li></ol>	<ol style="list-style-type: none"><li>1. You must prove that:<ul style="list-style-type: none"><li>- in the fiscal year preceding application for temporary residence permit the company attained revenue not lower than a multiple of 12 of the average monthly earnings in the province in this company has its registered office in the third quarter of the year preceding lodging the application. The average monthly earnings is announced by the head of the Central Statistical Office and, for instance, in the Mazovia province in the third quarter of</li></ul></li></ol>

<p>than the amount of income which entitles to benefits from the Social Welfare, or it must exceed the amount of 542 PLN if you have no dependants and in the case when you have any dependants, the amount must be over 456 PLN monthly per every family member.</p> <p>3. You must be ensured a place of residence; this means that you do not have to obligatorily present, for instance, a housing rental agreement, it may be also the flat's owner's confirmation that you stay under this address.</p> <p>4. In some cases you must have the permission of the competent authority to fill the given post or practising the given profession (if such an obligation arises from provisions of law).</p>	<p>2014 it was 4 899,84 PLN while in the Warmia - Masuria province 3 408,93 PLN. So if you start your business in the Mazovia province, you will have to declare an annual revenue of 58 798,08 PLN while in the Warmia - Masuria province this will be 40 907,16 PLN</p> <p>or</p> <ul style="list-style-type: none"> <li>- the company employs at least 2 employees being Polish citizens or foreigners who have received in Poland, e.g. a permanent residence permit or European Union long-term residence permit, a refugee status, supplementary protection, residence permit on humanitarian grounds, tolerated stay permit or they are European Union citizens for an indefinite period of time and on a full-time basis for the period of one year preceding the application.</li> </ul> <p>2. If you do not meet any of the above conditions you must prove that:</p> <ul style="list-style-type: none"> <li>- you have means to meet these conditions in the future;</li> </ul> <p>or</p> <ul style="list-style-type: none"> <li>- you undertake activities allowing to meet these conditions in the future, in particular contributing to an increase in investments, technology transfer, introduction of innovations or creating new jobs.</li> </ul>
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You must meet the above conditions if:

- ✓ you run a business activity in the form of limited partnership, limited joint stock partnership, joint stock company, limited liability company or a company you entered into or whose stocks/shares you purchased / took up;
- ✓ you work performing a function in the management board of a joint stock company or limited liability company which you set up or whose stocks / shares you purchased/ took up.

Please note that we refer to certain forms of conducting business activity since as a foreigner coming to Poland, e.g. on the basis of visa, you may conduct such activity only in these forms.

The right to conduct business activity as citizens of Poland, so also independently, i.e. on the basis of the entry to the Central Register and Information on Economic Activity, is given to only some foreigners who have, for example:

- ✓ a permanent residence permit or European Union long-term residence permit;
- ✓ a temporary residence permit in relation to studies or marriage with a citizen of Poland;
- ✓ a status of refugee or supplementary protection;
- ✓ a residence permit on humanitarian grounds or tolerated residence permit;
- ✓ the Pole's Card.

#### ***I have obtained the permit. Can I lose it?***

Yes, under some circumstances. The temporary residence permit due to conducted business activity may be withheld if you were convicted or punished for punishable acts enumerated in the aliens act, the act on promotion of employment and labour market institutions, in the Penal Code or the Act on the effects of delegating work to foreigners residing illegally on Polish territory.

## **4. Permits Issued in Special Situations**

#### ***Can I obtain a temporary residence permit if I found myself in a difficult situation and cannot leave Poland?***

Yes, if your personal situation is special and as a result you cannot leave Poland, you may apply for a temporary residence permit for the period of up to 6 months. It may be issued even if you must stay in Poland for a period shorter than 3 months. You may receive it more than once.

Such a temporary residence permit may also be issued in a situation when the interest of Poland requires your presence or you are obliged to appear in court or before any other authority.



**NOTE: This is a special kind of permit which you may apply for even if your stay in Poland is illegal / you are detained / placed in a guarded centre or in a custody for foreigners / you are banned from leaving the country / you serve a sentence of imprisonment / you are remanded in custody / you were obliged to leave Poland and the term of leaving the country voluntarily has not yet expired (or it was prolonged). You may also apply for it during your legal stay in Poland.**

### ***Shall I receive a permit despite staying in Poland without the legal title (illegally)?***

Yes, but only in specified circumstances. Apart from the circumstances enumerated above as special situations which require short-term stay, you may also apply for a temporary residence permit during your illegal stay in Poland when, for example:

1. Your stay in Poland is indispensable due to the necessity to respect the right to family life in the understanding of the European Convention for the Protection of Human Rights and Fundamental Freedoms (see the chapter concerning protection of family life page 37).
2. The fact that you leave Poland would infringe the rights of the child specified in the Convention on the Rights of the Child, to a degree considerably jeopardizing its mental and physical development (these circumstances both refer to a situation when you have a child who lives in Poland and you stay in regular personal contact with the child and breaking that contact because of the fact that you leave Poland would pose a threat to the child's healthy development as well as to a situation when it is you who is a minor who would be deported after spending most of your life in Poland).
3. You are a spouse of a citizen of Poland (see the chapter concerning spouses of Polish citizens page 42).
4. You are a victim of human trafficking.
5. You are a victim in criminal proceedings against the employer;
6. You are a minor child of a foreigner who:
  - ✓ remains in matrimony recognized by the Polish law with a citizen of Poland and possesses a temporary residence permit for a family member of a citizen of Poland;
  - ✓ stays in Poland on the grounds of a national visa or temporary residence permit if you were born when this national visa or temporary residence permit was valid and the foreigner has health insurance, a source of stable and regular income to live on and support your family members as well as an assured place of residence.
7. You are a minor child of a foreigner and you were born in Poland and you remain on the Polish territory as a minor without care.
8. You reached maturity during your stay in Poland (irrespective of your place of birth and the status which your parents have) and your subsequent stay in Poland is justified by your legitimate interest. In this case the application for a temporary residence permit may be submitted only within 1 year from the day when you reached maturity.

## **5. Reunification of Families of Foreigners**

### ***Is it possible for a member of my family to obtain a residence permit in Poland?***

Yes, this is possible thanks to the procedure of reunification of families. Within this procedure you may apply, as a foreigner living legally in Poland, to the governor for a residence permit for your family members no matter if they are already in Poland or still outside Polish borders.



**NOTE: You may use the right to reunification of families only if you stay in Poland on the basis of:**

- permanent residence permit or European Union long-term residence permit;
- status of a refugee or supplementary protection;
- residence permit on humanitarian grounds;
- temporary residence permit if you have stayed in Poland on these grounds for at 2 years and your last temporary residence permit is valid for the period of at least 1 year;
- temporary residence permit in connection with conducting scientific research or in a profession requiring high qualifications; in other words you hold the so-called blue card (in this situation additional requirements concerning the length of stay in Poland do not refer to you).

**NOTE: The family members for whom you may apply for a permit as part of reunification of families include only the spouse (with whom you remain in matrimony recognized in Poland) and minor children, including adopted children. This means that your children of 18 years and older as well as more distant family members cannot benefit from this right.**

### ***What conditions do I have to meet as a person applying for arrival of my family?***

In the proceeding you need to submit the documents which confirm that you have:

- ✓ health insurance or confirmation by the insurer in reference to covering medical expenses in Poland;
- ✓ place of residence;
- ✓ stable and regular source of income to live on.

If this is you who will support the family, in the proceeding you will present documents confirming that you have sufficient income (e.g. from remuneration for work) which must be at least 456 PLN per each person in the family. To confirm that your family members will have an assured place of residence you will produce, for instance, a housing rental agreement or statement from the hotel.



**NOTE: Foreigners with the status of refugee or supplementary protection do not have to prove have health insurance, place of residence and stable and regular source of income if they submit an application for a temporary residence permit for their family members within 6 months after the date of obtaining the refugee status or supplementary protection.**

### ***I want my family that is abroad to come to Poland. What documents do I need?***

As a rule every foreigner who is to be issued a temporary residence permit is required to submit a travel document (passport), which is why your family members must go the Polish embassy / Polish consulate, submit originals of their passports and obtain certificates of their copies. It costs 30 euros per document.

Then your family members must send you certified copies of their travel documents (passports) so that you are able to include them in the application. Remember to have it in mind still before lodging the application to the governor.

The governor also examines the relationships which you have with your family. The marriage certificate and birth certificates of children, if you have any, should be translated by a sworn translator and presented in the proceedings. If neither you nor your family has them, the governor may require another form of confirmation of your relationship.

### ***I received a permit for my family members. What next?***

If your family members are outside the Polish borders, the issuance of a temporary residence permit in Poland by the governor shall form grounds for their application for a visa to Poland in the Polish embassy / Polish consulate.

On coming to Poland members of your family will have to submit an application for issuance of the card and give their fingerprints.

Having a temporary residence permit issued as part of reunification of families, a member of your family may work in Poland without having to obtain a work permit and may start a business activity on the same grounds as Polish citizens, also in the form of the entry to the Central Register and Information on Economic Activity.

Besides family members of foreigners who were given in Poland the status of refugee or received supplementary protection have the right to social welfare benefits and Individual Integration Programme.

## **6. Protection of Family Life**

Apart from the situations described in other chapters in which you may apply for a temporary residence permit on the grounds of the matrimony or in which you as a foreigner may apply for a temporary residence permit for your family, there are two other kinds of permits given to foreigners due to their family life which they have in Poland in the understanding of the European Convention on Human Rights and Fundamental Freedoms.

### ***What is "family life"?***

Under article 8 of the European Convention on Human Rights and Fundamental Freedoms every individual has the right for their family life to be respected. It means that the country

as a rule should not intervene in family bonds between Polish citizens or foreigners staying in Poland. In the understanding of the Convention, family life is not restricted only to marriage and minor children, as in other provisions of law, but it is a wider term. It may include categories of partners being in informal relationships, a divorced parent who does not live with the child but remains in contact with one, members of extended family being closely interrelated, or even children who already reached their maturity yet due to, for instance, the necessity to provide care still remain in a close relationship with their parents.

Overall, the right to respect family life means that public authorities as a rule should refrain from issuing decisions or initiating activities which may break family unity (such as expelling a foreigner whose family remains in Poland).

### ***Is the respect for family life a mandatory obligation of public authorities?***

No. In specific situations the state may intervene in family life and make a decision in a consequence of which family unity will be broken. Such a situation may take place especially when the public authorities consider you to be a threat to the country's security or public order, for instance because of grave crimes committed in the past.

### ***Can I receive a residence permit if I have family life with a citizen of Poland or a citizen another European Union country living in Poland?***

Yes, the Polish law provides for such a possibility. If you lead family life in Poland with a citizen of Poland, another member state of the European Union or the countries of European Free Trade Association (EFTA)\*, you may submit to the governor an application for a temporary residence permit in Poland.

The application for a residence permit due to family life led in Poland must be submitted on the last day of your legal stay in Poland at the latest. To receive a permit you have to declare a source of stable and regular income to cover your costs of living. Currently this is the of minimum 542 PLN per person if are a single-person household or 456 PLN per every person in the family. It is also obligatory to have health insurance in Poland.

In the course of the proceedings it is investigated if the family bonds which you point to are factual. Consequently, the governor may summon you or your family members to appear for a hearing. Also a community interview may be conducted (the Border Guard may come to your place of residence, talk to your neighbours, etc.). If you, for instance, claim to have bonds with your child being a Polish citizen, in the course of the proceedings the governor will examine if you really have contact with the child, if you pay support for one and if your relations are durable.

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\* EFTA Member States: Iceland, Liechtenstein, Norway and Switzerland.

### **May I apply for a residence permit due to protection of my family life if I stay in Poland without the legal title (illegally)?**

Yes, the governor can grant you a temporary residence permit if your stay in Poland is necessary because family life and rights of the child must be respected and you stay in Poland illegally. In this situation protection is given not only to family life led with a Polish citizen or a citizen of another European Union country but also family life which you lead with another foreigner.



**REMEMBER:** Issuance of this permit is possible only if you stay in Poland illegally.

In the case of applying for this kind of permit you are not obliged to declare that you have a stable and regular source of income and health insurance. In your application you must demonstrate the existence of family bonds which you point to and describe how you maintain them.

### **What is the difference between these two types of permits issued due to family life protection?**

	<b>Permit granted to foreigners staying legally in Poland</b>	<b>Permit granted to foreigners whose stay is not legitimate</b>
<b>Family member with whom I have family life</b>	Polish citizen, citizen of another European Union or EFTA country*	Foreigner, and also Polish citizen, citizen of another European Union or EFTA country EFTA*
<b>Obligation to declare income</b>	Yes	No
<b>Obligation to have health insurance</b>	Yes	No
<b>Situation during the proceedings</b>	Stamp in the passport confirming legal stay	No stamp in the passport – illegal stay

\* EFTA Member States: Iceland, Liechtenstein, Norway and Switzerland.

## 7. Spouses of Polish Citizens

### 7.1 Entering into Marriages in Poland

#### *Who may enter into a marriage in Poland?*

Every person staying in Poland may enter into a marriage before the Polish Registry Office. This means that you also have the right to this even if you do not have the Polish citizenship. The possibility of entering into a marriage is not dependent on your migration status either. You may, therefore, get married even if you stay in Poland without the residence permit required by law.



**REMEMBER:** If you do not have documents which entitle you to be in Poland you must bear in mind that the Registry Office will notify the Border Guard about the date of your planned wedding. In such a situation you may be asked to show your ID and detained, and the Border Guard may initiate proceedings aimed at obliging you to leave Poland.

#### *What documents do I have to submit to enter into a marriage?*

3 types of documents are required to enter into a marriage in Poland:

- ✓ valid identity document (it can be, for instance, a passport or residence card);
- ✓ birth certificate;
- ✓ certificate issued by your country's authorities that you have the capacity to enter into a marriage under the law of your country.

All documents must be presented in Polish. If you have documents in another language, you must use services of a sworn translator who will render them into Polish. The list of sworn translators is available on the Ministry of Justice (in Polish): <http://bip.ms.gov.pl/pl/rejestr-i-ewidencje/tlumacze-przysiegli/lista-tlumaczy-przysieglych/search.html>



**NOTE:** If you were married and got a divorce, you should also submit the decree of divorce or marriage certificate with an annotation of the divorce.

#### *May I submit foreign documents?*

If your country is not a party to international conventions regulating issues connected with recognition of documents between different countries, you may be asked to legalize the documents which you want to present or authenticated by *apostille*. This is a form of authentication of documents which you submit. Legalization of documents may be done in the Polish consulate abroad upon submitting a suitable application while the *apostille* clause is given by the authorities of the country which the document comes from.

### **What is the certificate on the capacity to enter into a marriage?**

One of the documents required by the Registry Office is a certificate from the foreigner's country of origin on the capacity to enter into a marriage. Such a document confirms that you meet the requirements specified in your *lex patriae* to enter into a marriage, such as the fact that you reached a certain age, you are single, etc. In order to obtain such a document you should contact the embassy of your country. Remember, however, that some countries (e.g. Bangladesh, Ukraine or Pakistan) do not issue certificates on the capacity to enter into a marriage.



**REMEMBER:** The certificate from your embassy alone stating that you are single is insufficient. The document must confirm directly that you meet all the requirements necessary to enter into a marriage.

### **What can I do in a situation when I do not have all the documents?**

If you do not have the possibility of obtaining all the documents necessary to enter into a marriage, you may apply to the court to exempt you from this obligation. To this aim you must prepare an application to the district court competent due to the place of your residence, stating in it the reasons why you do not have the possibility of obtaining the required documents. You should also include in the application personal details of your future spouse, who becomes a participant of the proceeding, and you attach a Xerox copy of his or her identity document. You may also ask the court to appoint an interpreter for the time when the court hears you.

**100 zł**

**REMEMBER:** The fee for lodging an application to court costs 100 PLN. In the course of the proceedings you must also bear other court fees connected, for instance, with translation of documents or the presence of an interpreter at court hearings. If your financial situation does not allow you to pay these fees, you may apply to the court for exempting you from court fees. For that purpose you must present the court with your property statement on the basis of which the court will make a decision concerning this issue.

### **How does the court proceeding look like?**

In the course of the proceedings the court establishes if you meet the conditions to enter into a marriage. For this reason the court may summon you, for example, to give evidence, summon your future spouse or request that you provide additional documents. The court gets acquainted with the law in force in the country of your origin and decides if you meet the conditions to enter into a marriage specified by this law.

If the court rules in your favour, then the court's decision replaces the document which you were obliged to submit. Hence in the Registry Office you submit this decision.

### ***Where can I enter into a marriage?***

Marriages in Poland are concluded before the Superintendent Registrar of the Registry Office. As the principle of regionalization does not apply, you may choose any Registry Office on the territory of Poland in which you wish to enter into a marriage. The full list of offices is available on the website of the Ministry of Internal Affairs: <https://www.msw.gov.pl/pl/import/98,Adresy-USC-w-Polsce.html>

## **7.2 Temporary Residence Permit on the Grounds of Marriage with a Citizen of Poland**

### ***May I obtain a residence permit in Poland if I am a spouse of a Polish citizen?***

Yes. Marriage with a Polish citizen is one of the reasons for granting a foreigner a temporary residence permit. Such a permit is given for the period of up to 3 years.



**REMEMBER:** You may apply for a residence permit in Poland only if your marriage is acknowledged by the Polish law. It excludes the possibility, for example, of granting a permit to a foreigner who entered into a religious marriage with a Polish citizen.

### ***Do I have to stay in Poland legally in order to submit the application?***

As a rule the application for a temporary residence permit may be submitted until the last day of your legal stay in Poland. However, foreigners being spouses of Polish citizens may submit an application for a temporary residence permit even during such an unregulated (illegal) stay. If you meet all the other requirements necessary to be granted a permit, your illegal stay in Poland cannot be the only reason for a negative decision.



**REMEMBER:** If you submit an application during your legal stay in Poland, you will be given a stamp in your passport which will confirm your legal stay for the whole time of the procedure. In contrast, if you submit an application during your unregulated stay then it will be impossible to be given the stamp.

### ***Which documents do I have to submit?***

Except the documents submitted with each temporary residence permit you must submit your marriage certificate, whose certified copy was issued 3 months prior to submitting the application at the latest as well as a copy of the identity card of the spouse. In the course of the procedure the governor may ask you to produce additional documents.



**REMEMBER:** As a spouse of a Polish citizen you use the simplified procedure to obtain a residence permit in Poland, which means that you do not have to declare that you have health insurance and a stable and regular source of income to support your family.

### ***What does the proceeding look like?***

In the course of the proceedings the governor examines if the marriage which you entered into was not concluded only to legalize your stay in Poland (in other words if the marriage is not fictitious). Consequently, the governor may hear you, your spouse or other witnesses (for example, your spouse's parents), while the Border Guard may conduct a community interview in your place of residence.



**REMEMBER:** In the course of the proceedings you may present all the evidence confirming the circumstances presented by you.

### ***I obtained a permit. What rights do I have?***

Apart from the rights which arise from being in possession of the residence card (legal stay in Poland, possibility to travel in the Schengen area for 90 days during the following 180 days), having a residence permit due to the marriage with a Polish citizen, you may also undertake work in Poland without having to obtain a work permit or set up a business activity on the same principles as Polish citizens.



**REMEMBER:** Submit an application for another residence permit on the last day when your card is valid at the latest.

### ***Can I receive a permanent residence permit in Poland being a spouse of a Polish citizen?***

Yes, after 3 years after entering into a marriage you may apply to the governor for a permanent residence permit in Poland. The condition to obtain such a permit is continuous stay in Poland for the last 2 years before you submit the application on the basis of the temporary residence permit granted on the grounds of staying in a matrimony with a Polish citizen. Remember that the permanent residence permit may be taken away from you if you get divorced within 2 years after you obtain the permit.

### ***I am getting divorced. Will I be able to stay in Poland?***

If you stayed in Poland on the grounds of a temporary residence permit precisely due to the marriage with a Polish citizen, then your stay will lose its basis. In exceptional situations when you prove that this is motivated by your vital interest, the governor may grant you a

one-time residence permit in the case of divorce or separation with your spouse. The governor will also grant you a one-time temporary residence permit in the case of becoming widowed. The maximum period for this permit is 3 years.

Submitting another application for a temporary residence permit, you should therefore point to other circumstances which give grounds for your stay in Poland, such as performing work, conducting a business activity or taking up studies.

## 8. Work in Poland

Under provisions of the Polish law performing work by a foreigner refers to performing all kinds of paid work: employment may be based on both the employment contract and the so-called civil-law agreements (the most common ones include the fee-for-task agreement and contract for a specific task). Performing work also means performing functions in management boards of legal persons entered into the register of entrepreneurs of the National Court Register (this includes a limited liability company or a joint stock company).

As a rule foreigners may perform work in Poland on the grounds of a work permit (of course they must also have a visa or a residence permit). There are a number of exceptions to this rule. Besides, citizens of some countries have the possibility of performing work on the basis of the so-called statement, so in a simplified form.



**NOTE: From May 1st 2014 there is a possibility of obtaining a single permit for temporary residence and employment in one proceeding.**

### 8.1 Possibilities of Work without a Permit

#### *Who and when may work in Poland without a permit?*

1. Some foreigners may perform work without a permit. This is possible when, for instance:

You have a permanent residence permit in Poland, i.e.:

- ✓ you have a permanent residence permit;
  - ✓ you have a EU long-term residence permit issued in Poland.
2. You have one of the forms of protection in Poland or you apply for a refugee status, i.e.:
- ✓ you have a refugee status or you were granted supplementary protection;
  - ✓ you apply for a refugee status and you obtained a certificate which entitles you to perform work (such a certificate is obtained when refugee proceeding in the first instance, i.e. before the Office for Foreigners, has lasted for over 6 months);

- ✓ you have permission for residence on humanitarian grounds or a tolerated stay permit in Poland.
- 3. You have a temporary residence permit in connection with certain circumstances, such as:
  - ✓ you are a spouse of a Polish citizen or a foreigner who obtained the refugee status or supplementary protection and you have a temporary residence permit granted in relation to these circumstances (also in a situation when you obtained a residence permit after becoming widowed, divorced or separated);
  - ✓ you have a temporary residence permit due to starting full-time studies;
  - ✓ you have a temporary residence permit as a victim of human trafficking.

You can work without a work permit also if:

- ✓ you have a valid Pole's Card;
- ✓ you are a teacher of foreign languages and you work in kindergartens, schools, teacher training institutions / centres / departments or foreign language colleges;
- ✓ you are a graduate of a Polish upper secondary school, full-time studies or doctoral studies;
- ✓ you are a researcher in research institutes.



**NOTE: Once you have lodged your application for a temporary residence permit, a permanent residence permit or a EU long-term residence permit and you have a stamp imprint in your passport which confirms submitting the application and before that you were exempted from the obligation to have a work permit, you may still work without a permit.**

## 8.2 Work Permit

### *How to obtain a work permit?*

To obtain a work permit you need to submit an application in writing to the provincial office competent due to the employer's registered seat / place of residence. The application for a work permit is submitted by the employer. It is the employer who is a party to the proceedings concerning issuance of a work permit, which is why the employer should sign all documents and applications being part of this proceeding (or appoint a proxy).

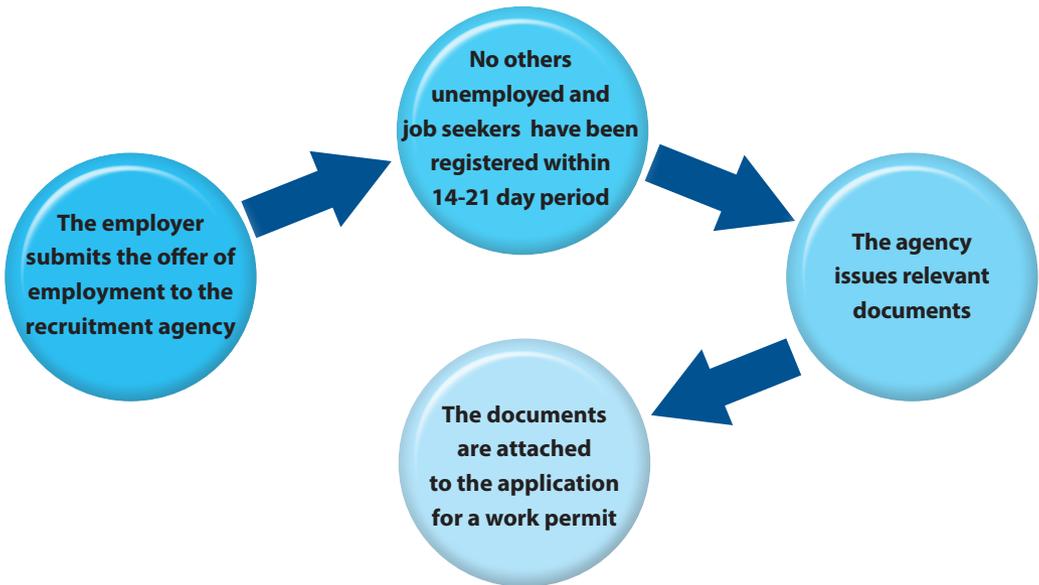
#### **Job market test**

The application for a work permit should be accompanied by the information from the local district employment agency that it is impossible to employ any other unemployed or job-seeking person or about a negative outcome of recruitment held by the agency. To obtain such information, the employer should submit to the employment agency an offer of the position on which a foreigner is to be employed. If there is no other unemployed person for this

post, then the employment agency issues information which must be attached to the application for a work permit (this is the so-called job market test).

The employment agency issues such information within:

- ✓ 14 days if the registers of the unemployed and job-seekers do not show that there is a possibility of holding recruitment for the given position;
- ✓ 21 days if recruitment is organized amongst the unemployed and job-seekers.



In the majority of cases it is best to start attempts to obtain a work permit by performing the job market test. Only in exceptional situations this test is not necessary to obtain a work permit by a foreigner. This happens e.g. in the case of citizens of Armenia, Belarus, Georgia, Moldova, the Russian Federation or Ukraine who:

- ✓ perform nursing jobs or work as a housekeeper for persons in a household;
- ✓ directly prior to submitting the application for a work permit performed work for at least 3 months for the same employer and on the same position on the basis of a registered statement on the intention of entrusting work; in such a situation the employer should submit the registered statement and contract as well as documents confirming payment of social security contributions (if they were required in connection with performing work).

Additionally, the application for a work permit should be accompanied by a number of other documents, such as:

- ✓ extracts from the relevant register concerning the employer (e.g. extract from the National Court Register);
- ✓ the employer's identity card or travel document if the employer is a physical person;
- ✓ copies of all completed pages from a foreigner's travel document (copies of a different identity card in the case when the foreigner does not have a valid travel document and does not have the possibility of receiving it);
- ✓ proof of payment for lodging the application for a work permit (50 PLN in the case of entrusting work to a foreigner for the period of up to 3 months and 100 PLN in the case of entrusting work for the period exceeding 3 months).

The employer should attach the originals of documents or their copies whose conformity with the original has been confirmed (such confirmation is performed by the notary; it may be also performed by an advocate or legal counsel but only in a situation when he or she is a proxy in the given case).

If the attached documents are in a foreign language, it is also necessary to submit a sworn translation of the given document.



**NOTE: To obtain a work permit it is necessary to establish such an amount of your remuneration in the contract so that it is not lower than remuneration of employees performing comparable work or on a comparable position at the given employer.**

### ***What are the contents of the work permit?***

As a rule the work permit is issued for the maximum period of 3 years. It specifies the employer, position or type of work you perform, minimal remuneration which you may obtain on the given position, work time and validity period of the permit.

The work permit is issued in 3 copies, 2 of which are received by the employer who later should hand in one of these copies to you.

The work permit gives grounds to apply for a temporary residence permit or visa in order to work.

### ***What shall I do if my work conditions change?***

As a rule you cannot perform work on conditions other than those indicated in the permit. If you change work conditions for other conditions not specified in the permit, your employer should obtain a new work permit.

One exception is remuneration which the employer may raise. Other changes that do not require a new work permit include changes to the company's registered seat or place of resi-

dence, the employer's name or legal form as well as takeover of the company or part of it by a different employer.



**REMEMBER:** If you change your job and are employed by a different employer, this new employer must obtain a new work permit for you.

The employer may also commission you to perform work of a different type or on a different position than that specified in the work permit for time periods not exceeding a total of 30 days in the calendar year. If other conditions specified in the work permit have been met, it is not necessary to obtain a new work permit specifying work of different type or on a different position.



**REMEMBER:** Performing work inconsistently within the conditions specified in the permit forms a basis for issuing a decision on the obligation to return to your country of origin.

### ***What are the obligations of the employer towards the employee who is a foreigner?***

Remember that the employer is obliged to:

- ✔ require you to submit a valid document which entitles you to stay in Poland still prior to starting work and keep its copy during the whole period of time when you work;
- ✔ obeying all labour rights in the same way as towards Polish citizens (when you work legally, it is your right, for instance, to receive remuneration in the agreed amount on time, if you work on an employment contract, you are entitled to a holiday, etc.);
- ✔ enter into a contract with you in writing and present you with a translation of this contract into language which is comprehensible for you before signing it;
- ✔ account in the contract for the conditions specified in the work permit which you obtained (e.g. if it was pointed out in the permit that you are to work on an employment contract, this is the type of contract you should sign with the employer) and give you one copy of the work permit;
- ✔ inform you about activities undertaken in connection with application for granting you or extending your work permit as well as decisions which were given in this respect.

### ***Is it possible to extend the work permit?***

Yes, it is possible to extend the work permit which you have, that is obtain another work permit under the same conditions. Such extension may be obtained in a similar proceeding as the work permit, but there is no need to conduct the job market test (for the job market test see above).

The application for work permit extension is submitted in writing by the employer not earlier than 90 days and not later than 30 days before expiry of validity of the permit. If the deadline for application for work permit extension is kept, then you may work legally under the same conditions until the day of giving the final decision on work permit extension.

The charge for work permit extension which the employer must pay is lower than the charge for the work permit and is 50 PLN in the case of extending the time of performing work by a foreigner for the period of time longer than 3 months, and 25 PLN in the case of extending of the permit for the period of time not exceeding 3 months.

### ***When does the governor give a decision on the refusal to grant a work permit?***

There are situations in which the governor gives a decision on refusal to grant a work permit. This takes place, for instance, when:

- ✔ the employer submits the application for a work permit containing untrue personal details or testifies falsely, withholds the truth or forges or manipulates a document with an intention of using it as an authentic document or uses such a forged or manipulated document as an authentic document;
- ✔ fails to attach information from the employment agency referred to above;
- ✔ has been punished for offences connected with illegal employment of foreigners or breach of labour laws or human trafficking;
- ✔ has been punished for crimes connected with forging documents (or when a foreigner for whom the work permit is to be issued has been punished for such a crime);
- ✔ personal details of a foreigner applying for a work permit have been placed on a list of foreigners whose stay on the territory of the Republic of Poland is undesirable..

The employer may appeal against the decision on refusal to grant a work permit to the Minister of Labour and Social Policy. Such an appeal is submitted through the governor who issued this decision and it is only the governor who sends it to the ministry.

### ***I have a work permit. Can I lose it?***

The governor may withdraw the issued work permit on the grounds of information provided by the employer who is obliged to pass such information. This takes place especially when you did not start working in the period of 3 months after the initial date of your work permit validity or you stopped working for more than 3 months and there were no major reasons for that.

Furthermore, the governor withdraws a work permit when there is a change in the circumstances or evidence which refer to the issued decision and also when the reasons for giving the work permit ceased to exist (or in a situation when you terminate the agreement with the employer).

The governor withdraws a work permit also in a situation when he or she receives information that your personal details were placed on a list of foreigners whose stay on the territory of the Republic of Poland is undesirable.

It is also possible to appeal against the decision on withdrawing a work permit to the Minister of Labour and Social Policy in the same way as against the decision to refusal to grant a work permit.

### **8.3 Work on the Basis of a Statement on the Intention of Entrusting Work to a Foreigner**

#### ***Who may work on the basis of the statement?***

A statement on the intention of entrusting work is, most generally, the employer's declaration of the intention of offering the given foreigner employment on the given position for a specific period of time and specified remuneration. Such a statement must be first prepared and subsequently registered in the employment agency. In such a situation the foreigner does not need to have a work permit in order to work legally.

Citizens of Armenia, Belarus, the Russian Federation, Georgia, the Republic of Moldova and Ukraine may work on the basis of registered statement during the term of maximum 6 in the following 12 months.

You may also work at that time on the basis of a number of statements from different employers.



**REMEMBER: To start working you must register the statement, not only fill in the statement form.**

#### ***How do you register the statement?***

The statement must be filled in and registered by the employer. The statement is filled in on the form (available, for example, on the website of the Ministry of Labour and Social Policy\*). It is registered in the district employment agency having jurisdiction due to the registered office of the employer or the employer's place of residence.

In the district employment apart from the statement itself the employer should submit other documents, such as his or her identity card (if the employer is a physical person who does not conduct a business activity), the entry to the Central Business Activity Register and Information System (if the employer is a physical person conducting a business activity) or the National Court Register (if the employer is a legal person, for example a company). Statement registration is free of charge.

Upon registering the statement, the employer should give you the original of the statement and on this basis you may obtain a visa to perform work or a single permit for residence and work.

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\* <http://www.mpips.gov.pl/praca/zatrudnienie-cudzoziemcow/>

### ***What to remember when you get a registered statement?***

A registered statement allows to work in Poland only when you stay legally in Poland: you have a valid visa and a residence card.

The statement allows to work for a particular employer indicated in the statement. It is not possible on the basis of a statement registered with one employer to undertake work for another employer. Undertaking work for another employer forms grounds for issuing a decision to leave Poland.

If you work on the basis of the statement, you must sign a contract with the employer in writing (contract of employment, fee for task agreement, contract for a specific task or other).

### ***Is it possible to extend the term of performing work on the basis of the statement?***

No, it is not possible to extend the work period on the basis of the statement if it defines the maximum period of work time (i.e. 6 months). However, while working on the basis of the statement (and, of course, legal stay) it is possible to submit an application for a work permit for a longer period of time on a general basis or a single permit for residence and work.



**NOTE: If you have worked for the given employer for at least 3 months on the basis of the statement and now this employer will apply for issuing you with a work permit, it is not necessary to conduct the job market test. Hence the procedure of obtaining such a work permit is much easier.**

## **8.4 A Single Permit for Residence and Work in Poland**

The possibility of application for a single permit for residence and work appeared when a new act on foreigners came to force on 1 May 2014. Since that time it is not necessary to apply first for a work permit (if it is required) and only then for a temporary residence permit due to performing work. It is done in one procedure.



**NOTE: It is also possible to submit a permit for residence and work in a situation when you are not obliged to have a work permit (e.g. you work on the basis of a registered statement).**

### ***What do I have to do to receive a permit for temporary residence and work?***

The application for temporary residence and work is submitted to the governor. Such an application is lodged by you, not your employer. Submission of the application costs 440 PLN.

Beside standard documents submitted while applying for a residence permit (application on a form, passport, photographs), when you apply for a temporary residence and work permit, you must prove that:

- ✓ you have health insurance or confirmation by the insurer in reference to covering medical expenses in Poland;
- ✓ you have a source of stable and regular income sufficient to cover your and your dependants' cost of living (this income should be higher than the income which entitles to social welfare benefits, i.e. for a single-person household it is 542 PLN, and – 456 PLN per person in a family monthly);
- ✓ you have a place of residence in Poland (it is not mandatory to present a legal title to the property which you occupy, for example a housing rental agreement, or registered residence although of course you may submit such documents as well): the proof may be, for instance, a statement by the owner that you live in a flat which belongs to him or her;
- ✓ the remuneration is specified in the contract so that it is not lower than remuneration of other employees performing comparable work with the same number of working hours or on a comparable position (unless you are exempted from the obligation to have a work permit);
- ✓ you have a certificate that the employer does not have a possibility of satisfying his personnel needs on the local job market: the so-called job market test which was referred to in the chapter concerning the permit to work (such a certificate is not needed e.g. in a situation when you are exempted from the obligation to have a work permit or when you directly before submitting the application you had a work permit or residence and work permit with the same employer at the same position).



**REMEMBER:** When you submit the application for residence and work in order to continue working on the same conditions as before, then you may continue such work as soon as you submit the application in an appropriate way.



**NOTE:** You cannot submit the application for residence and work when you conduct a business activity in Poland.

### ***What are the contents of the decision on granting a permit for residence and work?***

When a positive decision is issued, then the following factors are taken into consideration:

- ✓ the employer for which you will work;
- ✓ the position on which you will work;
- ✓ the lowest remuneration which you may receive;

- ✓ working time;
- ✓ kind of contract on the basis of which you will work.

If you work for a number of employers, the work conditions should be specified separately for each of these employers.

In a situation when the position specified in the permit undergoes changes or the amount of the remuneration is reduced and the permit is not amended, then the governor will withdraw the work permit.



**REMEMBER:** Working under conditions different than those indicated in the permit for residence and work forms grounds for issuing a decision to leave Poland.

### ***Is it possible to change the permit for work and residence?***

If you wish to work under different conditions than those specified in the permit, you may submit an application to the governor for amending the permit for temporary residence and work. If you continue to meet the requirements to be issued a permit, you should get a positive decision. The governor will refuse to amend the permit for temporary residence and work if the validity period of the permit to be changed has exceeded 3 years.

Changes to the company's registered seat or place of residence, the employer's name or legal form do not require changing or issuing a new permit for temporary residence and work.

### ***What should you do if you lose your job?***

If you have lost your job and you have a permit for temporary residence and work, you are obliged to notify the governor in writing about the loss of job with any of your employers enumerated on the permit within 15 working days (i.e. 21 calendar days).

In such a situation you have 30 days to find a new employer and submit another application for a permit for residence and work.



### III PERMANENT RESIDENCE PERMIT AND EUROPEAN UNION LONG - TERM RESIDENCE PERMIT



Both the permanent residence permit and the European Union long-residence permit are permits for residence of a foreigner in Poland issued for an indefinite term. This means that as long as you have your permit, you will be able to stay legally in Poland and you will not have to apply to renew it, only to replace the residence card (in the case of the permanent residence permit – every 10 years, and in the case of the European Union long-residence permit – every 5 years). You may lose these permits only in exceptional situations. They differ, first of all, by the conditions under which they can be obtained.

#### ***What conditions do I have to meet to obtain the European Union long - term residence permit?***

To be able to obtain European Union long – term residency in Poland, following conditions at the same time must be met:

- ✓ do not have citizenship of any European Union country;
- ✓ stay in Poland legally and continuously for at least 5 years directly before submitting the application;
- ✓ have a source of stable and regular income the amount of which is higher than the amount of income entitling to social welfare benefits (which is at least 542 PLN, if you are a single-person household, or 456 PLN per capita in the family) during the last 3 years before applying;
- ✓ have a legal title to residential premises (e.g. a housing rental agreement);
- ✓ have health insurance.



**REMEMBER:** Generally speaking, conditions to obtain a European Union long - term residency are the same within the whole of the European Union territory. Some European Union countries may, nonetheless, introduce other conditions for integration. Before you decide to apply for a European Union long - term residency in another European Union country, consult the embassy or a lawyer specializing in immigration law of that country.

### ***Do I have to stay in Poland for the whole 5-year period?***

Generally speaking, yes. One of the conditions of obtaining a European Union long-term residency is continuous and legal residence in Poland for at least 5 years directly prior to lodging the application for this permit. It does not mean, however, that you may not leave Poland for the whole period of 5 years. You may leave Poland for the period not exceeding 10 months in total. Individual trips may not, however, last longer than 6 months.

If you must leave Poland due to some serious reasons for a period of up to 6 months and your trip in total would exceed the 10-month maximum period of stay outside Poland, you will have to prove that a particular private situation required your presence outside Poland. Remember, however, that, you will not be able to leave for longer than 6 months at a time.



**NOTE: If you are a student and the curriculum of your studies at a Polish university foresees an internship or participation in classes abroad, you may stay outside Poland for longer than 10 months and you may even leave Poland for over 6 months at a time. Your residence will be still considered continuous.**

### ***Can I apply for a European Union long-term residence permit irrespective of the grounds on which I stay in Poland?***

Generally speaking yes. There are, however, a few exceptions to this rule:

1. The 5-year period of legal stay in Poland required to obtain European Union long-term residency will not include the period of your legal residence when you stay (or stayed) in Poland:
  - ✓ on the basis of a visa issued on humanitarian grounds;
  - ✓ on the basis of a permit to cross the border within low level cross border traffic;
  - ✓ on the basis of a temporary permit due to other circumstances requiring a short stay in Poland;
  - ✓ during you education period (unless you are a full-time student).
2. The 5-year period of legal stay in Poland required to obtain European Union long-term residence permit will not include half of the period of your legal residence when you stay in Poland:
  - ✓ on the basis of a visa or temporary permit due to full-time studies;
  - ✓ on the basis of a visa or temporary permit due to taking up or continuing a vocational training;
  - ✓ on the basis of a positive decision on awarding the refugee status or supplementary protection as long as the proceeding in this case lasted over 18 months. Then half of the period of the proceeding in the case to award the refugee status will be counted to the 5-year legal period of residence in Poland.

### ***Who may receive a permanent residence permit?***

You may receive a permanent residence permit if you meet one of the conditions below:

- ✓ you are going to settle down in Poland for good and you can prove your Polish origins;
- ✓ you are going to settle down in Poland for good and you have a valid Pole's Card;
- ✓ you have been in a marriage acknowledged by the Polish law with a Polish citizen for at least 3 years prior to submitting an application and directly prior to submitting an application you have remained in Poland for the continuous period of at least 2 years on the grounds of a specified residence title (temporary residence permit granted due to being in a marriage with a Polish citizen or obtaining the status of a refugee, supplementary protection or residence permit on humanitarian grounds);
- ✓ you have been staying in Poland continuously for at least 5 years on the grounds of the refugee status supplementary protection or residence permit on humanitarian grounds;
- ✓ you have been staying in Poland continuously for at least 5 years on the grounds of tolerated residence (this does not concern these persons who obtained a tolerated residence permit due to inability to expel them from Poland);
- ✓ you are a minor child of a Polish citizen and you remain under the child's parental authority;
- ✓ you are a minor child of a foreigner who received in Poland a permanent residence permit or European Union long-term residence permit as long as you were born after this permit was granted or during the period of validity of a temporary residence permit;
- ✓ you are a victim of human trafficking and you meet specified requirements concerning the length of and grounds for your stay in Poland, collaboration with law enforcement authorities and concern about returning to your country of origin.

### ***Do I have to have fixed income or health insurance to obtain a permanent residence permit?***

No. The conditions for obtaining a permit of this kind do not include fixed income in a specified amount or health insurance. It means that you may obtain a permanent residence permit not working regularly.

### ***Do I have to take a test in Polish to obtain a permanent residence permit?***

No. The command of Polish is not required to obtain a permanent residence permit.

### ***Do I have to have permanent residence registration?***

No. Permanent residence registration is not necessary to obtain a permanent residence permit.

### ***If one condition of obtaining a permit is my continuous stay in Poland for a specified term, can't I leave Poland during this period at all?***

No. You may leave Poland for a period not exceeding 10 months in total. Individual trips may not, however, last longer than 6 months: only then will your stay be still considered con-

tinuous (above see the answer to the question “Do I have to stay in Poland for the whole 5-year period?” page 56).

### **Who may receive the Pole’s Card?**

The Pole’s Card is issued by the consul to foreigners who will declare belonging to the Polish Nation, will prove Polish nationality of themselves or their ancestors as well as relationship with Polishness.

Therefore in the proceeding you should submit documents confirming your Polish nationality or having Polish citizenship in the past by you or at least one of your parents or grandparents or both great-grandparents. Instead of that you may present a certificate of a Polish or Polish community organization confirming active involvement in the activity for the Polish language and culture of Poland or Polish national minority for at least last two years. You will prove your relationship with Polishness if you demonstrate at least basic knowledge of the Polish language, which you consider your mother tongue, knowledge of Polish traditions and customs as well as their cultivation.

It should be remembered, however, that only persons coming from Armenia, Azerbaijan, Belarus, Estonia, Georgia, Kazakhstan, Kyrgyzstan, Lithuania, Latvia, Moldova, Russia, Tajikistan, Turkmenistan, Ukraine or Uzbekistan may apply for the Pole’s Card.

### **Who is a person of Polish descent?**

It is considered that a person of Polish descent is a foreigner whose at least one of your parents or grandparents or both great-grandparents were of Polish nationality or had Polish citizenship. Moreover, a person of Polish descent must prove a relationship with Polishness through, for instance, cultivating the Polish language, traditions and customs.

### **If I apply for a permanent residence permit due to the fact that I am a Polish citizen, is my marriage going to be examined again to see if it is factual?**

Yes. Even if you stayed in Poland on the grounds of temporary residence permits and consequently your marriage was examined to check if it had not been concluded in order to bypass the law, civil servants will still examine if your marriage is not fictitious when you apply for a permanent residence permit.



**OUR ADVICE:** When 2 years passed after you were granted a temporary residence permit on the basis of your marriage and you wish to apply for a permanent residence permit, submit at the same time an application for a temporary residence permit. This will prevent a situation in which on the refusal to grant you with a permanent residence permit (e.g. with imprecise calculation of full 2 years of residence), you will be left in Poland with no permit.

### ***Is it possible that a permanent residence permit will be withheld if I divorce my wife/husband after obtaining it?***

Yes. If you obtained a permanent residence permit due to the fact that you are in matrimony with a Polish citizen, the permit granted to you may be withheld if you get divorced with your spouse within 2 years after you obtained this permit.

### ***When can I submit an application for a permanent residence permit or a European Union long-term residence permit? Shall I obtain a stamp confirming my legal stay?***

The application may be submitted on the day when you manage to meet all the requirements necessary to obtain the given permit. Bear in mind, however, that you must always submit an application when you stay legally in Poland. If you submit an application being in Poland illegally, you will not obtain a permit.



**Applications for every permit type are available on the website of the Office for Foreigners at:**

**<http://udsc.gov.pl/cudzoziemcy/obywatele-ue-orazeogszwajcarii-iczlonkowie-ich-rodzin/formularze-wnioskow/>**

If, on the other hand, you submit an application during your legal residence, your stay in Poland will be deemed legal until the moment of obtaining the final decision in the case. Even if in the course of the proceeding the permit which you had so far lost its validity, if you submitted an application for a European Union long-term residence permit or a permanent residence permit during your legal stay in Poland and the administrative proceeding (before the governor or the head of the Office for Foreigners) is still ongoing, you will stay in Poland legally on the basis of the stamp in your travel document (passport).

### ***How much is a permanent residence permit or a European Union long-term residence permit? Can I get a reimbursement of the duty?***

The stamp duty for issuance of a European Union long-term residence permit or a permanent residence permit is 640 PLN. You should pay it prior to submitting your application or together with it. The duty is paid into the bank account of the town council in which there is the provincial office to which you submit the application. If you fail to do this, you will be summoned by the governor to pay this duty. You will not get the permit without settling this duty on time.



**REMEMBER: If you do not get the permit which you apply for, you will be able to apply for reimbursement of the amount paid by you (see sample application for refund of the stamp duty on page 25).**

### ***What shall I do if I do not have a passport?***

If you do not have a valid transport document (passport), you may under exceptional circumstances present a different document confirming your identity. A valid residence card is such a document. But you must prove before the governor that you really have no possibility of obtaining a passport (see the answer to the same question concerning temporary residence permits on page 26).

### ***What can I do if I receive a negative decision?***

Provisions of law which form grounds for not issuing you with a permanent residence permit and a European Union long-term residence permit are rather complex. These circumstances are precisely specified by law and some grounds for these decisions depend on the basis on which you apply for the permit.



**OUR ADVICE:** To determine if the governor rightly refused to issue you with a permanent residence permit or a European Union long-term residence permit, it will be best if you contact a lawyer or an employee from a non-governmental organization which provides free legal assistance to migrants. You have 14 days to lodge an appeal, so contact the organization as soon as possible so that the lawyer has enough time to prepare the documents. You may, for instance, send scanned documents via electronic mail (e-mail) or fax, giving your telephone number. Before the consultation the lawyer will ask you to sign a consent for processing of your personal data, to which he or she is obliged, and will subsequently provide you with the explanation of the decision and its consequences and will advise you what you can do. You may also lodge an appeal yourself (see the point on appeals in the first part page 19).

### ***How long will I obtain the residency card for? Do I have to replace it?***

Upon obtaining a positive decision and granting you the permit which you applied for, you will get a residency card. If you obtained a European Union long-term residence permit, the residence card will be issued for the period of 5 years, and if you received a permanent residence permit, the card will be issued for the period of 10 years.

The European Union long-term residence permit UE and the permanent residence permit are indefinite-term permits. This means that civil servants will check only once, before giving the decision, if you meet the requirements to be issued such a permit.

Residency cards are replaceable. Before expiry of its validity you should submit an application to be issued a new card to the governor who issued the decision on the permit. Issuing of the card costs 50 PLN. If you lose or destroy your residency card and consequently need a new one, the fee for exchanging it will be 100 PLN. In the case of subsequent culpable loss or destruction the charge will be 150 PLN.

50%

**REMEMBER:** There is a possibility of receiving a reduction in the amount of the charge for issuing or replacing the residency card. If you are in a difficult financial situation or if you are under 16 years of age you may obtain a 50% charge reduction.

***Can I work in Poland if I have a permanent residence permit or a European Union long-term residence permit?***

Yes. You are entitled to work without having to obtain additional permits. You will not need, therefore, a work permit.

***Can I conduct a business activity if I have a permanent residence permit or a European Union long-term residence permit?***

Yes. You are entitled to conduct a business activity on the same grounds as Polish citizens.

***Can I learn and study in Poland if I have a permanent residence permit or a European Union long-term residence permit?***

Yes. You are entitled to free education in, for instance, public kindergartens, primary schools, lower and upper secondary schools as well as studies of the first, second and third cycle.

***Can I use social welfare if I have a permanent residence permit or a European Union long-term residence permit?***

Yes. If you have a place of residence and you are going to reside in Poland, you may benefit from social welfare on the same principle as Polish citizens.

You may obtain from social welfare both financial and non-financial benefits. In order to obtain such assistance you should go to a social welfare centre in the place of your residence.

***Can I travel freely to other European Union countries if I have a permanent residence permit or a European Union long-term residence permit?***

As a rule, having a residence card you may travel to other countries of the Schengen area for 90 days during all subsequent 180 days counted from the date of the first entry to another country of the Schengen area (a list of the countries in the Schengen area can be found on page 28).



**REMEMBER:** To travel within the Schengen area you must hold a valid residency card (e.g. passport), justify the purpose and conditions of stay, possess suitable financial means, and you cannot represent a threat to public order and safety as well as or be entered in the national list of foreigners who are denied entry to a given country.



**OUR ADVICE:** Before going to another country for a longer period of time check what precise conditions you need to meet in order not to violate provisions of immigration law in the country. If you wish to work in another country, you are advised to contact the embassy of the country which you want to visit. Employment issues belong to provisions in force in the given country. The residence card issued in Poland does not entitle you to work in another country.

If you have a European Union long-term residence permit, you may stay on the territory of European Union countries other than Poland also during a period of time exceeding 3 months. You will have to show that this is justified by your work, conducting a business activity in this country, studies or vocational training or other reasons. Individual countries may also introduce other additional requirements.



**NOTE:** Once you have a permanent residence permit or a European Union long-term residence permit you are entitled to a Polish travel document for a foreigner. In this proceeding it is necessary to prove that it is not possible to obtain a travel document (passport) from your country.

### ***Is it possible to lose a permanent residence permit or a European Union long-term residence permit?***

Generally yes. You may lose the permit which you were granted if:

- ✓ it is required by reasons of defence or national security or the protection of safety and public order. This could be connected with an intentional crime which you have committed;
- ✓ in the course of the proceedings to be granted such a permit you submitted an application with untrue data or information or you lied during the hearing;
- ✓ in the course of the proceedings you used counterfeit documents;
- ✓ you left Poland for the period of over 6 years. Remember that the reasons why you did it are not important;
- ✓ you obtained Polish citizenship. You will not be then treated in Poland as a foreigner.

Apart from the aforementioned reasons you may also lose the European Union long-term residence permit if:

- ✓ you obtained a European Union long-term residence permit in another country;
- ✓ you were deprived of the refugee status or supplementary protection as long as you received a permit in relations to your stay in Poland on these grounds;
- ✓ you left the territory of the European Union for the period of over 12 months irrespective of the reasons.



**NOTE: If you received a permanent residence permit because you remain in a matrimony with a Polish citizen, the permit may be withheld from you if you got divorced within 2 years after obtaining this permit. Also if you are sentenced to imprisonment for the period of at least 3 years for an intentional crime, you may lose the permanent residence permit irrespective of the reasons why you obtained it.**



## IV RESIDENCE PERMIT ON HUMANITARIAN GROUNDS AND TOLERATED RESIDENCE PERMIT



### ***What is residence permit on humanitarian grounds and tolerated residence permit?***

Residence permit on humanitarian grounds and tolerated residence permit are residence titles given to foreigners in respect to whom there is a proceeding in progress on obliging a foreigner to return, yet such a return is impossible for some reasons. In the proceeding on obliging you to return you may obtain only one of these permits. They are granted for an indefinite period of time (without a time limit). They differ in respect of the conditions of obtaining them as well as entitlements arising from them (e.g. the right to cross borders or applying for a permanent residence permit).

### ***When will I be able to obtain a residence permit on humanitarian grounds?***

The residence permit on humanitarian grounds is granted when obliging you to return:

1. May take place only to a country in which:
  - ✓ your right to life, freedom and personal security would be endangered;
  - ✓ you might be subject to torture or inhuman or degrading treatment or punishment;
  - ✓ you might be forced to work;
  - ✓ you might be deprived of the right to a fair trial or be punished without legal basis.
2. Would violate your right to family or private life.
3. Would violate rights of a child to a degree considerably jeopardizing its psychological and physical development (these circumstances both refer to a situation when you have a child who lives in Poland and you stay in regular personal contact with the child and breaking that contact because of the fact that you leave Poland would pose a threat to the child's healthy development as well as to a situation when it is you who is a minor who would be deported after spending most of your life in Poland).

### ***What is the difference between the right to family life and the right to private life?***

We wrote about family life in chapter 6 in part II page 37.

Private life is, in contrast, all social connections between you and Poland. This is of particular importance in relations to children of foreigners who were born in Poland and spent most

of their childhood here, they speak the Polish language rather than their mother tongue and they go to Polish schools. In the proceeding concerning their return the authority should analyze the issue of the difficulties which the child is likely to encounter in their country of origin and the question whether the child has stronger bonds with Poland or their country of origin.

If you are a foreigner and you spent most of your life with your family in Poland, contact a non-governmental organization helping foreigners. You will discuss your situation in detail with a lawyer or another worker and talk about the issue of legalization of your stay on this basis.

### **When will I be able to obtain a tolerated residence permit?**

Tolerated residence permit is granted when the residence permit on humanitarian grounds cannot be granted. This happens when you committed a very serious crime in the understanding of the Polish or international law in Poland or abroad or you participated in committing it or for any other reasons you were considered to be a threat to the country's security or public order.

Consequently, tolerated residence permit is granted for the same reasons as residence permit on humanitarian grounds, i.e. if obliging you to return may take place only to a country in which:

- ✓ your right to life, freedom and personal security would be endangered or
- ✓ you might be subject to torture or inhuman or degrading treatment or punishment;
- ✓ you might be forced to work;
- ✓ you might be deprived of the right to a fair trial or be punished without legal basis.

And at the same time there are circumstances which justify the refusal to grant you a residence permit on humanitarian grounds.

Besides tolerated residence permit will be granted to you if obliging you to return cannot be enforced (or your expulsion is impossible) for reasons beyond your control or the control of the Border Guard.

Tolerated residence permit may be granted to you also when an extradition proceedings on your expulsion was pending but the court or the Minister of Justice decided that your extradition is unacceptable.



**NOTE: In its decision on granting you a permit for tolerated residence the authority may oblige you to report in specified time intervals to the relevant chief of Border Guard division and inform them about every change of your place of residence.**

You cannot be refused a tolerated residence permit in the circumstances described above. However, if you expulsion or extradition to another country is impossible, you shall not obtain a tolerated residence permit if you are considered a threat to the defence and national security or the protection of safety and public order.

The above information is summarized in the table below:

Residence permit type	When you obtain a permit	When you do not obtain a permit
Residence permit on humanitarian grounds	<p>If obliging you to return may take place only to a country in which:</p> <ul style="list-style-type: none"> <li>- your right to life, freedom and personal security would be endangered;</li> <li>- you might be subject to torture or inhuman or degrading treatment or punishment;</li> <li>- you might be forced to work;</li> <li>- you might be deprived of the right to a fair trial or be punished without legal basis;</li> <li>- would violate your right to family or private life in the understanding of the Convention for the Protection of Human Rights and Fundamental Freedoms;</li> <li>- would violate rights of a child to a degree considerably jeopardizing the child's physical and mental development.</li> </ul>	<ul style="list-style-type: none"> <li>- when you were considered to be a threat to the country's security or public order;</li> <li>- you committed a crime or participated in committing a crime against the peace, humanity or in a war crime in the understanding of the international law;</li> <li>- you committed a crime or participated in committing a crime in Poland or a deed abroad which is a crime in the understanding of the Polish law.</li> </ul> <p><b>NOTE You may also be refused the permit when you committed abroad a deed which is a crime in Poland and for which you may be imprisoned and you fled your country in order to escape the punishment.</b></p>
Zgoda na pobyt tolerowany	<p>1. If obliging you to return: May take place only to a country in which:</p> <ul style="list-style-type: none"> <li>- your right to life, freedom and personal security would be endangered;</li> <li>- you might be subject to torture or inhuman or degrading treatment or punishment;</li> <li>- you might be forced to work;</li> <li>- you might be deprived of the right to a fair trial or be punished without legal basis.</li> </ul>	

	<p>2. Obliging you to return cannot be enforced for reasons beyond your control or the control of the Border Guard.</p> <p>3. Your extradition within extradition proceedings is unacceptable on the basis of the decision by the court of the Minister of Justice.</p>	<p>- if you are considered a threat to the defence and national security or the protection of safety and public order.</p>
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**Who grants permits for residence on humanitarian grounds tolerated residence?**

Permit for both residence on humanitarian grounds and tolerated residence is given by the chief of Border Guard division. The authority which considers appeals on these cases is the Head of the Office for Foreigners.



**REMEMBER:** Permit for both residence on humanitarian grounds and tolerated residence is given within the return procedure. Consequently, if you are not granted permit for both residence on humanitarian grounds and tolerated residence by the Border Guard authority or the Head of the Office for Foreigners, a decision on your return will be issued.



**NOTE:** Initiation of the return procedure is connected with the risk of placing you in a guarded centre.

It may happen that one of the circumstances referred to above will not come to light until the decision obliging you to return is issued. In such a situation you should turn to the chief of Border Guard division who issued the decision obliging you to return with the information that there are reasons for issuing you with a permit for residence on humanitarian grounds and tolerated residence. The Border Guard issues a permit for both residence on humanitarian grounds and tolerated residence routinely and not at your request. This is why in such situations for instance written information on your position is sufficient.



**NOTE:** Only in the case of a tolerated residence permit granted in connection with refusal to extradite you the permit is issued at your explicit request.

**What am I supposed to do if I do not have a passport?**

Not having a travel document (passport) does not represent an obstacle in obtaining a residence permit on humanitarian grounds or a tolerated residence permit.



**NOTE:** Once you obtain a residence permit on humanitarian grounds, you are entitled to receive a Polish travel document for a foreigner. In this proceeding it is necessary to prove that it is impossible for you to obtain a travel document from your country (passport). You do not have such a possibility in the case of a tolerated residence permit.

### *What can I do if the decision is negative?*

Provisions of law which form grounds for not issuing you with a residence permit on humanitarian grounds or a tolerated residence permit are rather complex. Answering this question will require an analysis of your individual situation.



**OUR ADVICE:** In order to establish if you were rightly refused to be issued a residence permit, it will be best if you contact a lawyer or an employee from a non-governmental organization which provides free legal assistance to migrants. You have 14 days to lodge an appeal, so contact the organization as soon as possible so that the lawyer has enough time to prepare the documents. You may, for instance, send scanned documents via electronic mail (e-mail) or fax, giving your telephone number. Before the consultation the lawyer will ask you to give consent for processing of your personal data, to which he or she is obliged, and will subsequently provide you with the explanation of the decision and its consequences and will advise you what you can do. You may also lodge an appeal yourself (see the point on appeals in part I page 19).

### *What document will I be issued with after obtaining a residence permit on humanitarian grounds or a tolerated residence permit?*

If you were issued with a residence permit on humanitarian grounds, you will get a residence card for 2 years.

If you were issued with a tolerated residence permit, you will receive a “tolerated residence permit” document also valid for 2 years. After these 2 years you only submit an application for issuance of a new card or document rather than re-apply for a residence permit (see below).



**NOTE:** The main difference between these two documents is that the “tolerated residence permit” document does not entitle you to cross the border even if you have a passport.

### ***Who will issue and replace the document in the case of a residence permit on humanitarian grounds or a tolerated residence permit?***

Both the residence card and “tolerated residence permit” document are issued by the chief of Border Guard Division or post who issued you with the relevant residence permit. If the permit was granted by the Head of the Office for Foreigners as part of hearing the appeal, the residence card will be still issued by the Border Guard.



**NOTE: If you have been granted a residence permit on humanitarian grounds, a residence card will be issued at your request!**

If you already have a residence permit on humanitarian grounds or a tolerated residence permit, the document will be replaced by the chief of Border Guard Division or post competent in your place of residence.

Both permits are issued for an indefinite period of time. This means that civil servants will check only once, before giving the decision, if you meet the requirements to be issued such as permit. The residence card and “tolerated residence permit” document are subject to replacement. 30 days before the card expires you should submit an application to be issued a new card / document. Issuing or replacing the card costs 50 PLN. If you lose or destroy your residence card and consequently need a new one, the fee for exchanging it will be 100 PLN. In the case of subsequent culpable loss or destruction the charge will be 150 PLN.

**50%**

**REMEMBER: There is a possibility of receiving a reduction in the amount of the charge for issuing or replacing the residence card. If you are in a difficult financial situation or if you are under 16 years of age you may obtain a 50% charge reduction.**

### ***Will I be able to apply for a permanent residence permit in the future if I have a residence permit on humanitarian grounds or a tolerated residence permit?***

If you have a residence permit on humanitarian grounds, you may obtain a permanent residence permit after 5 years of continuous residence on the territory of Poland.

If you have a tolerated residence permit, you may obtain a permanent residence permit after 10 years of continuous residence on the territory of Poland.



**NOTE: If you obtained a tolerated residence permit issued in connection with the inability to expel you, you cannot apply for a permanent residence permit.**

***Can I work legally if I have a residence permit on humanitarian grounds or a tolerated residence permit?***

Yes, if you obtained a residence permit on humanitarian grounds or a tolerated residence permit, you have the right to work in Poland without having to have a separate permit.

***Can I conduct a business activity if I have a residence permit on humanitarian grounds or a tolerated residence permit?***

Yes, if you stay in Poland on the basis of a residence permit on humanitarian grounds or a tolerated residence permit, you have the right to set up and conduct a business activity on the same principles as Polish citizens. You may conduct a business activity in any form allowed under applicable law: sole proprietorship, civil law partnership, general partnership, limited liability partnership, limited partnership, limited joint stock partnership, limited liability company or joint stock company.

***Can I study in Poland if I have a residence permit on humanitarian grounds or a tolerated residence permit?***

Yes. You are entitled to free education in, for instance, public kindergartens, primary schools, lower and upper secondary schools. You cannot, however, start and continue studies or doctoral studies or other forms of education on the same principles as Polish citizens. You may, however, benefit from these opportunities on the basis of the decision of a university rector or the Minister of Science and Higher Education.

***Am I entitled to social welfare if I have a residence permit on humanitarian grounds or a tolerated residence permit?***

Yes, but to a limited extent. If you obtained a residence permit on humanitarian grounds or a tolerated residence permit, you are entitled to social welfare benefits only in the form of shelter, meal, indispensable clothes or designated benefit. Social welfare is granted by the competent social welfare centre in the place of your residence.

***Do I have the right to travel across the European Union if I have a residence permit on humanitarian grounds or a tolerated residence permit?***

If you have a residence permit on humanitarian grounds you may freely go to and stay on the territory of other countries of the Schengen area for 90 days during all subsequent 180 days counted from the date of the first entry to another country of the Schengen area (a list of the countries in the Schengen area can be found on page 28).



**REMEMBER:** To travel within the Schengen area you must hold a valid residence card (e.g. passport), justify the purpose and conditions of your stay and possess suitable financial means, and you cannot represent a threat to public order and safety as well as or be entered in the national list of foreigners who are denied entry to a given country.



**OUR ADVICE:** Before going to another country for a longer period of time check what precise conditions you need to meet in order not to violate provisions of immigration law in the country. If you wish to work in another country, you are advised to contact the embassy of the country which you want to visit. Employment issues belong to provisions in force in the given country. The residence card issued in Poland does not entitle you to work in another country.



**NOTE:** If you have a tolerated residence permit, you are not entitled to cross the border. Also remember that if you leave Poland the permit which you were granted may be withheld.

### *Is it possible to lose a residence permit on humanitarian grounds or a tolerated residence permit?*

Yes. The residence permit on humanitarian grounds will be withdrawn from you when:

- ✓ the circumstances due to which the permit was granted ceased to exist or changed in such a way that the permit is no longer required;
- ✓ the circumstances justifying the refusal to issue a permit appeared after the permit had been granted;
- ✓ it came to light that you withheld information or documents or presented false information or documents of considerable importance for issuance of the permit;
- ✓ you left the territory of Poland on a permanent basis;
- ✓ you returned to your country of origin.

In turn, the tolerated residence permit is withdrawn when:

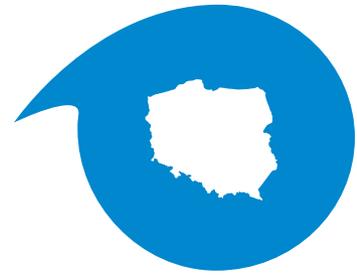
- ✓ the reason for granting the permit ceased to exist;
- ✓ you left the territory of Poland;
- ✓ your subsequent stay may represent a threat to the defence or national security or protection of safety and public order (when you obtained the tolerated residence permit due to the inability to expel or extradite you in the course of extradition proceedings);

- ✔ you evade the obligations imposed on you in the decision on granting you the permit, i.e. to report at specified time intervals with the relevant chief of Border Guard division or post and to inform him about every change of your place of residence.

You have the right to appeal against the decision on withdrawing the permit.



# V POLISH CITIZENSHIP



A foreigner who has not had Polish citizenship before may obtain it:

1. By virtue of law.
2. By being granted Polish citizenship.
3. By recognition as a Polish citizen.

## 1. Acquiring Citizenship by Virtue of Law

### *Who may acquire citizenship by virtue of law?*

A minor may acquire Polish citizenship by virtue of law (in other words without the necessity to obtain a decision in this case). This is possible:

- ✓ through birth – when at least one of your parents is a Polish citizen;
- ✓ through birth – when you were born on the territory of Poland and your parents:
  - are unknown
  - do not hold any citizenship or
  - their citizenship is undefined.
- ✓ when you were found on the territory of Poland and your parents are unknown;
- ✓ when you were adopted by a person or persons holding Polish citizenship if full adoption took place before the age of 16.

## 2. Granting of Polish Citizenship

### *Who may be granted Polish citizenship?*

Polish citizenship is granted to foreigners by the President of the Republic of Poland at his discretion. Polish citizenship may be granted to every foreigner who submitted an application to be granted such a citizenship. It is of no importance on which basis you reside in Poland (it may be, for instance, a visa, temporary residence permit, permanent residence permit, refugee status), as long as you have a source of stable and regular income or a place of residence. You even do not have to reside in Poland. Similarly, the command of the Polish language is not necessary.

Currently the President of the Republic of Poland cannot condition granting Polish citizenship on your renouncement of the citizenship which you have held so far. This means that if you are granted Polish citizenship and you still hold your previous citizenship, you will have dual citizenship.

### ***How can I apply for being granted a Polish citizenship?***

You must submit a relevant application to the President of the Republic of Poland. The application is lodged via the governor or consul. Applications for being granted Polish citizenship may be obtained in the provincial office or on websites of provincial offices.

The application may be submitted in person or send it by post. If you decided to send the application by post, remember that your signature on the application must be officially certified. The application on behalf of a minor foreigner is lodged by his or her statutory representatives, e.g. parents.



**NOTE: The President of the Republic of Poland may but does not have to grant Polish citizenship to a foreigner. This means that not every foreigner who submits an application to be granted Polish citizenship will obtain it. It is not possible to appeal against refusal to grant Polish citizenship by the President of the Republic of Poland: this is a final decision.**

The President of the Republic of Poland grants Polish citizenship or refuses to grant it in the form of a decision. If you receive a decision on granting you Polish citizenship, you become a Polish citizen from the day of issuing this decision by the President of the Republic of Poland.

Currently considering an application for granting Polish citizenship lasts about 1.5 years.

## **3. Recognition as Polish Citizen**

### ***Who may be recognized as a Polish citizen?***

A foreigner may be recognized as a Polish citizen if he or she meets the conditions defined by the provisions of law.

The prerequisite for being recognized as a Polish citizen is the command of the Polish language confirmed by:

- ✓ an official certificate of the command of Polish\* which is granted upon passing an exam before the state examination board;
- ✓ a certificate of graduation from a school in Poland;
- ✓ a certificate of graduation from a school abroad with Polish as the language of instruction.

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\* How to obtain an official certificate of the command of Polish? For detailed information visit the website <http://certyfikatpolski.pl/>.

One of the above documents must be attached to the application for recognition as a Polish citizen. This condition does not apply only in a situation when the application for recognition as a Polish citizen is submitted by a minor whose one of parents is a Polish citizen or whose at least one parent was restored Polish citizenship.

Furthermore, to be recognized as a Polish citizen, you must reside in Poland on the basis of a permanent residence permit or European Union long-term residence permit. Then you may be recognized as a Polish citizen when:

- ✓ you have resided in an uninterrupted way on the territory of Poland for at least 3 years on the basis of one of these permits, you have a stable and regular source of income in Poland as well as a legal title to the property in which you live;
- ✓ you have resided in an uninterrupted way on the territory of Poland for at least 2 years on the basis of one of these permits and you remain in matrimony with a Polish citizen for at least 3 years;
- ✓ you have resided in an uninterrupted way on the territory of Poland for at least 2 years on the basis of one of these permits and you do not hold any citizenship;
- ✓ you have resided continuously and legally on the territory of Poland for 10 years (no matter on which basis) and you hold a permanent residence permit or European Union long-term residence permit (no matter how long), a stable and regular source of income in Poland as well as a legal title to the property in which you live;
- ✓ you are a minor, one of your parents is a Polish citizen and the other parent not holding Polish citizenship has given consent to recognizing you as a Polish citizen;
- ✓ you are a minor, at least one of your parents was restored Polish citizenship, and the other parent not holding Polish citizenship has given consent to recognizing you as a Polish citizen.

You may be recognized as a Polish citizen also if you have resided in an uninterrupted manner on the territory of Poland for at least 2 years on the basis of a permanent residence permit with you obtained in relation to Polish descent or possession of the refugee status granted in Poland.

If you stay in Poland on the basis of a temporary residence permit, a tolerated residence permit, a residence permit on humanitarian grounds or a visa or in connection with granting you a refugee status or supplementary protection, and you wish to be recognized as a Polish citizen, first you must obtain a permanent residence permit or European Union long-term residence permit. At any time you may submit an application for granting you Polish citizenship by the President of the Republic of Poland.

### ***In what way can I apply for recognition as a Polish citizen?***

You must submit a relevant application to the governor competent over your place of residence. Applications for recognition as a Polish citizen may be obtained in the provincial office or on websites of provincial offices. The application on behalf of a minor foreigner is lodged

by his or her statutory representatives, e.g. parents. Remember to attach to the application the required documents, such as photographs or a document confirming the command of Polish.

Upon receiving your application the governor will issue a decision on recognizing you as a Polish citizen or refusal to recognize you as a Polish citizen. You have a right to appeal against the governor's to the Minister of Internal Affairs. The appeal must be made via the governor within 14 days after the governor's decision was serviced.

### **3.1 Spouses of Polish Citizens**

#### ***Shall I receive Polish citizenship directly after getting married to a Polish citizen?***

Conclusion of a marriage with a Polish citizen with a foreigner does not cause changes to citizenship of spouses. This means that after being married to a Polish citizen you will not obtain Polish citizenship automatically. You must apply for recognition as a Polish citizen or for granting you citizenship by the President of the Republic of Poland.

#### ***How can I apply for Polish citizenship in connection with marriage?***

To be recognized as a Polish citizen, first you must obtain a permanent residence permit or European Union long-term residence permit. Upon obtaining this permit you must reside in Poland for at least 2 years in an uninterrupted manner. After these 2 years, if you have been married for over 3 years, you may submit an application for recognition as a Polish citizen. Hence recognition as a Polish citizen of a spouse of a Polish citizen takes at least 4 years after conclusion of marriage.

Besides a spouse of a Polish citizen may submit at any time an application for granting Polish citizenship by the President of the Republic of Poland.

## **4. Withdrawal of Polish Citizenship**

#### ***Can Polish citizenship be withdrawn?***

If you have already obtained Polish citizenship (by virtue of law, through recognition as a Polish citizen or granting of Polish citizenship), no authority is entitled to withdraw this citizenship without your will. You will lose Polish citizenship only at your will. For this purpose you must submit an application to the President of the Republic of Poland for giving consent to renounce Polish citizenship.



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The Helsinki Foundation for Human Rights was established in 1989 by members of the Helsinki Committee, who had been operating underground in Poland. Today, it is one of the largest non-governmental organisations protecting human rights in Poland. The Foundation’s activities include: monitoring and research concerning complying with human rights, strategic litigation, education in Poland and abroad within the scope of human rights as well as legal assistance provided to citizens of Poland and foreigners. The Foundation collaborates with international human rights institutions and since 2007, we have been in consultative status with the United Nations Economic and Social Council (ECOSOC).

The Legal Assistance for Refugees and Migrants Programme was launched in 1992. Its fundamental activities include free of charge legal advice for foreigners contacting the Foundation as well as performing interventions and litigation activities. The scope of activities under the Programme also include monitoring that foreigners’ rights are observed, drawing up opinions with regard to drafts of legislative acts that concern migration as well as providing information and education in relation to foreigners’ rights.

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