Rights and obligations of foreigners

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Requirement of a legal residence of the foreigner in Poland

A foreigner from outside EU can work legally in Poland if they

- hold a document permitting them to enter the Polish labour market, i.e. a work permit, a seasonal work permit, a declaration of entrusting work to a foreigner (or must be exempted from the said requirement based on specific regulations) or a temporary residence and work permit,
- hold a residence title, the grounds for which must entitle also to work (e.g. a relevant visa or residence permit);

Residence titles which can entail a permit to work in Poland include:

- **based on a visa**, except for visas issued for tourist, temporary protection and visit due to humanitarian reasons, because of the state interest or international obligations (those are visas mentioned in Article 60 section 1 item 1, 22 or 23 of the Act of 12 December 2013 on Foreigners respectively);
- pursuant to Article 108 section 1 item 2 **(a stamp in a travel document** confirming submission of the application for a temporary residence permit — the stay is legal until the final decision is issued) or Article 206 section 1 item 2 (a stamp in a travel document confirming submission of the application for a permanent residence permit — the stay is legal until the final decision is issued) of the Act of 12 December 2013 on Foreigners, or based on the stamp in a travel document, confirming the submission of an application for a residence permit for EU long term resident, if they were entitled to work in Poland directly before submitting the application;
- **based on a temporary residence permit**, except for the permit granted in connection with the circumstance mentioned in Article 181 section 1 of the Act of 12 December 2013 on Foreigners (this is a temporary residence permit granted because of the required short-term foreigner's stay in Poland resulting from their obligation to appear in front of a Polish public body, vital interest of the foreigner or the interest of Poland);
- based on a **visa issued by another Schengen Area state,**
- based on a **residence document issued by another Schengen Area state,**
- within a **non-visa traffic**.

The foreigner working legally in Poland is entitled e.g. to:

- receive remuneration not lower than the one stipulated in the foreigner's work permit, declaration of entrusting work to a foreigner or the temporary residence and work permit;
- receive one copy of the work permit or the original declaration submitted by the employer to the Poviat Labour Office, entered in the declarations register;
- receive a written agreement, being grounds for work, in a language understandable for them.

Types of agreements

In Poland, it is possible to work under various agreements (e.g. a contract of employment or civil law agreements, e.g. a contract of mandate or for specific work). The type of the agreement is connected with different work nature and the rights and obligations of the employer and employee.
Most rights and the broadest protection is offered to an employee by a contract of employment. Pursuant thereto, the employee is entitled e.g. to:

- the protection from the termination of the contract of employment for selected categories of workers (primarily employees on sick leaves, during a leave, pregnant workers, employees at the pre-retirement age);
- the determination of the working and resting time;
- paid holiday leave;
- remuneration for the time of sickness;
- specification of detailed rules of agreement termination;
- remuneration for overtime work (longer than stipulated in the Labour Code);
- at least the minimum remuneration (in 2019 the minimum remuneration in Poland is PLN 2,250.00 gross; it is reduced by the social insurance contributions and advance personal income tax payments).

What should a contract of employment contain?

Apart from naming the employer and the employee, agreement type and its execution date, it should indicate the following information:

- work type (name of the position/job, function and job description);
- work location;
- remuneration corresponding to the work type: work commencement date (if it is not stipulated in the contract, it is assumed to be the date when the contract is signed);
- working hours.

The contract of employment cannot contain provisions less beneficial for the employee than the ones stipulated in the Labour Code.
The employer who executes the contract is obliged to register the employee for social insurance within 7 days after they commence work.

Civil law agreements

Those are agreements governed by the Civil Code. The most frequent civil law agreements include:

- contract of mandate,
- contract for specific work.

Important information: The employer must not execute a contract for specific work to circumvent the Labour Law provisions or reduce the costs of the foreigner's employment! Execution of a civil law agreement when the contract of employment should be signed (e.g. supervised work, in regular hours and in a specific location) constitutes a violation of the Labour Law provisions and is subject to a fine.

Important information: For the contracts of mandate (Article 734 of the Civil Code) and for the agreements which the provisions concerning specific work apply to (Article 750 of the Civil Code), **the minimum hourly rates apply, i.e. PLN 14.70 gross at present.**

Important information: For some civil law agreements, e.g. the contracts of mandate, the employer is obliged to register for social insurance purposes! The employer must do it within 7 days after the employee has commenced work.

Foreigner's registration as an unemployed person

Foreigners who lost their job **are entitled to register as unemployed in the Poviat Labour Office** if they hold one of the below-mentioned residence titles:

- refugee status;
- permanent residence permit;
- residence permit for EU long-term resident;

- temporary residence permit granted to perform work in a highly-qualified job;
- temporary residence permit to carry out scientific research;
- temporary residence permit granted in connection with holding a residence permit for EU long-term resident in another EU state;
- residence permit due to humanitarian reasons or a consent for tolerated stay in Poland;
- in connection with benefiting from temporary or supplementary protection in Poland;
- temporary residence permit for a family member of a Polish national or a stamp in a travel document confirming submission of an application for the temporary or permanent residence permit or the residence permit for EU long-term resident, if they held a temporary residence permit directly before the application was submitted;
- temporary residence and work permit or a visa issued to perform work provided they were employed in Poland continuously for at least 6 months directly before registering as unemployed

and they fulfill the conditions stipulated in the Act on Employment Promotion and Labour Market Institutions.

Rights of foreigners registered as unemployed

Following registration, those people will be able to use unemployment benefits and labour market services, i.e. employment services, career counselling and career information, help related to active jobseeking and participation in training organised by the Labour Office. Moreover, they will be subject to health insurance and, consequently, use free health care services. For foreigners who hold a temporary residence and work permit (the so-called "uniform permit") and a visa issued to perform work, participation in training will not cover financial aid related to further education during training and post-graduate courses. A registered foreigner can be entitled also **to the unemployment benefits** if they reside based on one of the above-mentioned residence titles and meet the conditions of acquiring the said right, as stipulated in the Act on Employment Promotion and Labour Market Institutions (as a rule, they comprise the obligation to work and pay Labour Fund contributions for 365 days altogether in 18-month period before the date of registering as an unemployed person).

Foreigner's registration as a jobseeker

Foreigners who do not meet the conditions required for registration as unemployed can register as jobseekers. They obtain access to services offered by Labour Offices, e.g. to the employment services and career counselling.

Labour market services available to the people not registered in the Poviat Labour Office

Foreigners holding a temporary residence and work permit or a visa issued to perform work or another temporary residence permit, regardless of whether they are registered as unemployed or jobseekers, can use:

1. Popularly available employment services provided by Labour Offices;
2. Information on the jobs, labour market and training and education opportunities provided by Labour Offices;
3. Information and electronic databases aimed at obtaining jobseeking and self-employment skills.

The right to use the benefits and labour market services is conditional on the residence title type held by the foreigner and applies solely during its validity period. After the visa or a temporary residence permit is withdrawn or after the expiry of the said documents, the foreigner loses their unemployed or jobseeker status.