

# Legal 500

## Country Comparative Guides 2024

### Poland

### Corporate Immigration

### Contributor

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This country-specific Q&A provides an overview of corporate immigration laws and regulations applicable in Poland.

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# Poland: Corporate Immigration

## 1. What are the relevant government entities relating to immigration in your jurisdiction?

The relevant government entities relating to immigration in Poland are as follows:

- Consulates and Embassies of Poland in the foreign countries – applicable for i.e. obtaining visas, legalization of documents and other consular services.
- Local Labour Offices – applicable for issuance of labour market test and declaration of entrusting work to a foreign national.
- Voivodship Immigration Offices – relevant for majority of the immigration processes connected to work and stay legalization (i.e. work permits, residence permits, blue cards, EU registration)
- Office For Foreigners – central government office handling refugees, asylum, and international protection cases, also acting as second appeal instance for residency permit cases issued by Voivodship Offices
- Polish Border Guard – a state security agency responsible for border control and border crossing within the country ports of entry, as well as enforcement of immigration law regarding the legal ground for work and stay of foreign citizens in Poland
- The National Labour Inspectorate – a state agency responsible for supervising the observance of labour and employment law in Poland, including provisions regarding employment of foreign citizens in Poland.

## 2. What are the options available for sponsor-based employment in your jurisdiction and timelines involved in securing a work permit?

In Poland, all the work permits are employer (sponsor) based, i.e. it is not possible for the foreign national to obtain a work permit for themselves.

Available options for sponsor-based employment in Poland are work permits type A, B, C, D, E.

Estimated processing time of electronically filed application for Work Permits type A is around 1-2

months. Please be informed that for work permits type A the Labour Market Test may be required. If the Labour Market Test is needed it takes additional 2 to 3 weeks to obtain it.

Estimated processing time of obtaining Work Permits type B takes approximately 1-3 months. The process of obtaining work permit type C – E takes approximately 1-2 months.

## 3. What are the primary options available for unsponsored work and investment in your jurisdiction?

Every foreigner working in the territory of Poland as an employee should have a work permit, unless they are exempted under the other regulations (e.g. EU citizens, graduates of full-time studies at the Polish university etc.). If an individual is not exempted from the obligation of obtaining a work permit, it is the obligation of an employer to obtain such permit.

## 4. What are the requirements for becoming a sponsor of employment-based migrants and what are the role and reporting duties of sponsors?

Any local company, which is registered in Polish Court Registry (KRS) or an individual entrepreneur registered in the Central Registration and Information on Business (CEIDG) or a private person who is, for e.g., hiring a foreign house help or babysitter, may apply for a work permit for a foreigner. There is no special sponsorship or registration required to be sponsor of employment-based migrants but to receive work permit, the applicant (sponsor):

- may not have any tax and social security arrears in Poland,
- must fulfil duties related to mandatory social security and healthcare registrations of employees,
- must have sufficient funds or sources of income to satisfy the obligations due from employment of foreigners,
- may not be lawfully punished for selected crimes relating to illegal employment or crimes

against employee rights resulting from Labour Code provisions or crimes relating to human trafficking.

In case of assignment from foreign company to company registered in Poland, the obligation of obtaining a work permit lies on the foreign posting entity, where an individual is employed. The foreign employer should appoint a person, who will represent it in Poland. Additionally to this requirement, a foreign company should notify the Labour Inspectorate about the details of the assignment and comply with other regulations specified in the respective Polish law on the Posted Workers.

There are no specific reporting obligations due to employment of foreigners in Poland, but certain events might trigger filing of notification to Polish immigration authorities when foreigners are hired under work permits e.g. change of employer's registered seat, legal form or legal name, acquisition of work place, earlier work termination of given foreigner, break of employment for at least 3 months, etc.

#### **5. Are applications filed electronically, or paper base? Is a physical visa/work permit document issued or is an electronic approval issued?**

The work permit application can be filed either electronically or in paper, depending on the application type and the location of the immigration office. In principle fully electronic path applies to all work permits types, however, in certain regions, a paper path is still the primary way to obtain work permits types B – E. As a result, work permits are primarily issued in digital form with a digital signature. However, an additional paper copy is handed for the employee to use it when applying for a work visa (and a work permit in a digital form is not accepted).

Residency permit applications which are filed by foreigners to legalize their stay may be lodged only in paper. There is no electronic path possible at the moment, however, it is foreseen while discussing ongoing amendments in the area of immigration law.

#### **6. Is an in-person attendance/interview required as part of the visa/work permit application process? Is an individual required to enrol their biometrics (digital photo, fingerprint scan) as part of the visa/work permit process?**

In-person attendance/interview are required as part of

the entry visa and residence permit application process. An individual is also required to enroll biometrics (photo in hard copy, fingerprint scan) during both processes. In-person attendance is not a part of the work permit application process as employer applies for a work permit for a given foreign national and must provide the scan of foreign national's passport.

#### **7. What persons qualify as dependants? Can dependants work based on their dependant visa status? Are there any restrictions?**

Immediate family members covering legally married spouses and minor children qualify as dependents for Polish visa and residency permit process. Partnership or common law relationships are not considered as legal dependents but may be still allowed to apply for an entry visa or residency permit depending on the discretion of the immigration authorities. Legal dependents cannot initially work on their dependents visas but may be granted temporary residency permit in Poland under so called joining the family purpose which gives them unrestricted access to Polish labor market. As the legal status of a dependent is correlated with the legal status of the main applicant, their access to Polish labor market depends on the main applicant's type of resident permit.

#### **8. What is the general time frame and processes for obtaining permanent residence and citizenship for sponsored and unsponsored business-related immigration?**

An application for a residence permit for a long-term resident of the European Union may be submitted by a foreigner who has been residing legally and uninterruptedly on the territory of the Republic of Poland for at least 5 years immediately prior to submitting the application. There is also requirement to prove Polish language command at B1 level. This might be certified by state organized exams.

Under certain circumstances resulting from personal situation the application for permanent residency status can be filed earlier than required 5 years stay. In case of individuals having a Pole Card issued due to their Polish roots the application for permanent resident status can be submitted based on that fact after arrival to Poland.

A foreigner residing continuously on the territory of the Republic of Poland for at least 3 years based on a permanent residence permit, a residence permit for a long-term EU resident or the right of permanent residence, who has a stable and regular source of income

in the Republic of Poland may apply for a Polish citizenship. Under certain circumstances resulting from personal situation the application might be submitted sooner (for e.g., in case the applicant possesses Polish roots).

## 9. What productive type activities can a business visitor undertake and for how long?

Polish immigration rules do not include catalogue of permissible business activities which would not be considered as standard work duties in Poland; hence every case must be analysed case by case to decide if a certain activity might be conducted based on a business visa. It concerns especially short trips in regard to:

- Performance discussions;
- Contract negotiations;
- Attending a training;
- Providing a training;
- Office based planning activity (no hands-on work);
- Visits to the factory (no hands-on work);

However, any business activities exceeding the 30 calendar days limit, might trigger work permit obligation under the assignment type. In case of employees being seconded to a related party in Poland (including secondment to branch, rep office or permanent establishment) and when work permit type C is applicable, no work permit is triggered for initial 30 days stay period during the calendar year irrespective of type of activities carried. Based on our experience with the Border Guards in Poland, such 30 days waiver period is recognized as not triggering work permit in case of assignments between related parties.

## 10. Can remote work be carried out from your country?

As per the immigration regulations, if the foreign national holds a right to work and a right to stay in Poland, he/she can work remotely from place other than companies' office or regular workplace (e.g. working from home). In case when a remote work would be performed from other country for the Polish entity, then the foreign immigration regulations apply.

The possibility of a foreign citizen working from Poland for an employer registered outside of the territory of Poland (and not under temporary posting/assignment to Poland) is currently under discussion and must be analysed on a case-by-case basis. It is also worth to

remember that even if a so called workation scheme is possible on a certain occasion the individual still has to be compliant with regulations regarding entry and legal stay in Poland.

## 11. Are there any productive work / revenue generating activities that can be carried out as a visitor and without the need for a work permit? If so, what activities and for how long?

Generally, there is no defined catalogue of activities that can be carried out on a visitor status without need for a work permit and the necessity to apply for the work permit in case of temporary posting to Poland would depend on the type of posting to Poland and its length. In case of employees being seconded to a related party in Poland when work permit type C is applicable, no work permit is triggered for initial 30 days stay period during the calendar year irrespective of type of activities carried. In case of work permit type D applicable for secondment to a local Polish entity for a purpose of temporary and occasional service, there is no allowed period for work permit exemption.

On top of the general rules there are certain work permit exemptions available for short term postings if certain conditions are met. Foreign nationals conducting the following hands-on work activities may be eligible for a technical work authorization exemption for up to three months per calendar year, if their employer holds an after-sales agreement and foreigners maintain their permanent place of residence outside of Poland:

- Technical installation, repairs or maintenance, supplying complete technological equipment, machinery or other equipment (hardware), if the foreign employer is its producer
- Training employees of a Polish company (legal entity), which is a recipient of the equipment mentioned above
- Participating in the collection of ordered technological equipment, machinery, or other equipment if the Polish entity is its producer

## 12. Is there a remote work or nomad visa category in your jurisdiction? If not, how likely is it that this will be implemented in future?

There are no visa categories enabling remote or nomad work or equivalent at this point of time. No plans or discussions to implement it in Poland for the time being.

### 13. How easy is it to switch visa categories/jobs/employer from within country? And/or if made redundant, can the individual regularise their stay in another capacity and what is the timeframe allowable?

As a rule, a work permit and a residence permit for work are issued with connection to employment at a specific company. In such case, the permits state such data as the job position, remuneration and data of the employer. In case of a change of the i.e. job position or the employer there might be a necessity to obtain a new work permit and change or obtain new residence permit which requires initiating a new immigration case taking several weeks.

Unified temporary residence permit for work is also tied to an employer that is why in case of employer change it is mandatory to apply for a new residence permit or apply to amend the currently possessed residence permit. However, it is possible to change the job position without amending the unified residence permit if the core scope of duties stays the same. This change has been demanded to introduce by employers to facilitate work promotions within the company and as such is vastly use.

It is worth to remember that for the unified temporary residence permit will to be amended successfully, a foreign citizen must submit a notification to Immigration Office informing about termination of the contract with his/her former employer/contractor within 15 work days.

Some permit types may not include employer (sponsor) details and if this is a case switch of employer or change of employment conditions is possible easily although it may require filing a notification to Immigration Office (but not waiting for the new permit).

If made redundant, it is necessary to officially notify Immigration Office about that fact within 15 working days counting from the last day of employment. If notification on redundancy is made on time, the authorities would not cancel the existing residency permit for at least 30 days from termination date. However, foreigner is required to find new purpose of stay in Poland (e.g. new employment) and apply for a new residence permit in relation to this. In practise, the existing residency permit allows to continue stay (if official notification filed on time) until officially cancelled by the immigration office.

### 14. What common issues or concerns may arise

### for employers under business immigration in your jurisdiction?

- Processing times and delays on Immigration office side – in certain immigration offices the processing time for getting a temporary residence permit can take up to a year or longer;
- Issues with getting a personal appointment for entry visa submission / residence permit submission due to high demand for visas and insufficient resources on authorities side;
- Limited possibility of utilizing work permit electronic path (only works in certain regions in Poland);
- Visa process for Poland may be challenging in certain locations beginning with booking a slot to submit a visa application, as a result it may delay the relocation and thus employment process;
- War in neighbouring Ukraine caused a significant influx of war refugees that were granted temporary protection status in Poland and other EU countries. Due to war in neighbouring country and implementation of special protective rules for Ukrainian refugees, Polish government suspended statutory timelines for processing of immigration applications including work permits and residency permits. The suspension is currently valid till 30 September 2025.

### 15. Is there a fast track process / certification that business can obtain to expedite visa / permit processing?

There is no possibility of fast track procedures for this moment with regards to the permits that can be obtained within Poland. However, processing time depends on the type of residence or work document available depending on, e.g., type of work or the origin of the foreign citizen, hence it is recommended to consider all possible solutions in a certain circumstances.

### 16. What are the recent trends, both political and social that have impacted your jurisdiction with regard to immigration policy and law?

Poland is experiencing considerable growth of foreign workforce in the last couple of years due to stable economy and relatively low unemployment rate (one of lowest in entire EU area). Growing number of foreigners in Poland arriving for work resulted in the significant increase of immigration related permits issued in Poland which adversely affected abilities of administration to process permits within statutory timelines. Although immigration policy was not top priority for the Polish



governments in the last few years and immigration law provisions were relatively stable, however, with fast changing reality that seems no longer to be the case. New government in charge since December 2023 announced creation of long-term migration strategy for Poland covering period 2025-2030. Immigration law provisions are being amended more often recently with the aim of trying to keep up with events impacting global mobility in general.

## 17. Are there any new and / or anticipated changes impacting immigration law and / or policy in your jurisdiction?

The government has been announcing changes in immigration laws on Polish labour market for a few years now and on 23 May 2024, for a *bill of 15 May, 2024, on allowing foreigners access to the employment market* has appeared on the website of the Government Legislation Centre. The main goal of the bill is to streamline the procedures of employing foreigners in Poland, as well as to reduce loopholes allowing to take advantage of the Polish immigration system. This should be approved later in 2024 and officially enter in force from 1 January 2025.

Additionally, Poland is also about to implement regulations imposed by Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment, which will result in additional advantages given to EU Blue Card holders. The main foreseen changes revolve around facilitating requirements such as shortening the minimal length of employment contract or allowing foreigners conducting work based on a contract of mandate to apply for one or opening a window for an EU Blue Card holder to register as a private entrepreneur.

And finally, Poland is working on its long-term immigration strategy. A document "Schedule of work on drawing up a comprehensive, responsible and secure migration strategy for Poland for 2025-2030" has been published by the Ministry of the Interior and Administration in February 2024 and the process of extensive public discussions has started. The final draft of the strategy is planned to be ready by the end of 2024. The document will set grounds for amending regulations in immigration and adjusting them to Polish socio-economic needs.

## 18. How do you see technology developing and

## evolving to support immigration process in the future?

With the new draft law proposed to be binding from 1 January 2025, all work permit applications should be filed fully electronically after new law is approved. Up to now, electronic submission of work permits is optional but also limited to certain work permit types and cannot be utilized in all regional immigration authorities across Poland.

As per initial discussion about long-term migration strategy for Poland (in preparation) there are certain plans to develop technology in immigration area by Polish government by digitalization of the immigration process and enabling the immigration office to use access to other government databases, which hold foreigner's details (probably tax/social security data). Polish government is planning to fully digitalize also residency permit process which currently is based on paper filings which is one of the reasons for the long processing times. It is also planned to standardize the practice of immigration process between regional office and creating databased for the purpose of proceedings.

At the same time internal, digital exchange of information between immigration and tax offices, as well as Polish Border Guard and social insurance institutions has been on the rise with an aim to prevent abuse of the gaps in the system.

## 19. What are the Right to Work requirements in your jurisdiction?

Foreigners are entitled to work in Poland if:

- reside legally and have a work permit, unless one is not required, or.
- they hold a temporary residence and work permit or a temporary residence permit for the purpose of highly qualified employment.

Before making an offer and then hiring a foreign citizen, the employer must verify the candidate's legal ground for stay in Poland. Later, throughout the time of employment, the employer is obligated to store in the employee's personal files foreign citizen's proof of:

- legal stay in Poland, e.g., a copy of resident permit decision, visa or another residency document.
- right to work for that certain employer and on the position mentioned in the work contract, e.g., a work permit or documents confirming

the work permit exemption like up-to-date university statement.

## **20. What are the types of civil and criminal penalties employers may face for non-compliance with immigration rules i.e. employing an individual who does not have the Right to Work?**

Employers found to be complicit in allowing foreign nationals to work without the proper work authorization may face fines from PLN 1,000 up to PLN 30,000, as well as may be banned to obtain a work permit for a period up to two years

Additionally, the following sanctions may be applied for employing a foreign nationals repeatedly who are illegally residing in Poland: a financial penalty or prison sentence; a ban on accessing EU funds; submitting repayment to the State Treasury for any EU funds received in the 12 months preceding the sentence date; exclusion from any public tender for one year from the date of sentence validation; inability to consider cash payments, benefits, or other charges associated with the foreign national in question as deductible costs of earnings.

Failing to complete Labour Inspection notification on posted workers (or late filing and non-compliance) is the criminal/administrative liability of the person representing the foreign employer and may result in a fine of up to PLN 30,000 at the authorities' discretion.

While there are no penalties for failing to deregister foreign nationals at the end of employment/assignment, doing so may result in increased difficulty for employers in obtaining work permits for future foreign employees.

## **21. Are there labour market testing requirements in your jurisdiction and if so, what do they involve?**

Work permit, unified temporary residence permit and temporary residence permit for highly skilled workers (EU Blue card) are subject to labour market test.

As of market labour test, there are several requirements that must be met.

First, for foreigners the monthly salary cannot be lower than the average salary paid on the similar job positions in the district of applying. Second, we need to indicate what education level, how many years and on what positions of professional experience is required from the

candidate, than cannot be higher or lower than typically required from a candidate on the mentioned position.

LMT not required, for e.g., IT-related roles or in case the candidate uninterrupted stay in Poland of at least 3 years or was hired, based on a work permit, by the same employer and on the same position prior to applying for EU Blue Card or unified temporary residence permit. Once LMT is issued we attach it to work permit application along with the documents from a candidate proving qualifications indicated in LMT.

As per draft law currently in process, Polish government is considering full abolishment of local market testing since this does not fit current labour market needs. If the new law is approved, this will be binding from 1 January 2025.

## **22. Are there quota requirements, restrictions or a cap on the numbers of foreign nationals hired per company in your jurisdiction?**

Under the Polish immigration regulations, it is possible for the government to introduce the quota regarding the number of issued permits (both work permits and residence permits connected to work) per calendar year, however so far such quotas have never been introduced.

## **23. Are there any exit procedures in your jurisdiction, if an individual is departing permanently?**

Employers are required to notify the Immigration Office within seven calendar days of the termination of a work permit holder if the foreign national's employment is terminated more than three months before the expiry of the work permit, as well as the foreign national ceased performing work for a period exceeding three months.

In case of Temporary Residence Permit holders, the foreign national has to notify the immigration office within 15 working days that the basis of his residence permit has ceased to exist.

## **24. Are there any requirements for medical certificates or vaccinations for your jurisdiction?**

In general, there is no requirements for medical certificates or vaccination for the immigration process but medical check-ups are mandatorily required due to local labour law provisions in case of local hiring.

## 25. Are there any language requirements for your jurisdiction?

There are no language requirements, unless knowledge of the language was one of the requirements indicated in the job offer or the foreign citizen apply for Long Term EU residence permit or Polish citizenship.

## 26. What are the government costs associated with a typical employment based visa?

100 PLN (approx. 21 EUR) – work permit (most types)

540 PLN (approx. 115 EUR) – temporary residence permit for work purposes

## 27. Is a local contract of employment required in order to obtain a work based visa or work permit? Are there salary or other thresholds to be met?

Local contract is not required to obtain work permit, providing employment details in the application is enough.

It may happen that when applying for an entry working visa, the Consulate wants to see work permit plus additional letter from the employer confirming potential employment (employment contract draft / offer letter / invitation letter).

Employment details indicated in work permit document and the ones in employment contract must be the same.

As for work permit and unified temporary residence permit there is a general minimum monthly salary requirement, which cannot be lower than 4.300 PLN gross starting from July 1st, 2024 (in case on the basis of local employment contract). At the same time, in case of an employment based on civil contract, the minimum salary level is 28,10 PLN gross per hour.

For EU Blue Card applicants there is a separate salary requirement, stating the amount of the minimum yearly gross remuneration required for the purpose of granting the permit may not be lower than equivalent of 150% of the amount of the average remuneration in the national economy during the year preceding conclusion of

employment contract. In 2024 the minimum salary for the EU Blue Card is 10733,22 PLN per month.

## 28. What are the maximum periods of stay for individuals on an employment based visa / work permit?

In general, Type A-E Work Permits may be issued for up to three years, though Type B Work Permits may be valid for up to five years for members of management boards of companies that employ more than 25 persons. There is no limit on how many renewal applications may be submitted for Type A-E Work Permits.

The maximum period for which the first entry visa type D can be issued is 365 days. Upon entry to Poland on the said visa, the foreign national can apply for a temporary residence permit which can be issued for maximum period of 3 years.

## 29. Does your jurisdiction allow dual nationality?

Yes.

## 30. What are the most positive aspects of your immigration system compared to the rest of the world?

Polish law provides possibility of easier access to the Polish labour market for several groups of foreign nationals. For example, all students (third country nationals) who are enrolled on the full-time studies in Poland are exempted from the work permit obligations. Thus, they have equal access to the Polish labour market as the Polish nationals.

Furthermore, there are also several legal regulations which provide easier access to the Polish labour market for the dependent family members of foreign nationals working in Poland – e.g. if they hold a dependent residence permit issued with connection to the EU Blue Card holder. What is more, as a rule, there is no minimal time limit of stay after which a foreigner is allowed to start the relocation of their loved ones and as a result the family may move to Poland simultaneously.



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