

Doing Business in Poland

LEGAL ASPECTS
GUIDEBOOK FOR FOREIGNERS | 2022



Peter Nielsen & Partners Law Office is a modern Danish-Polish law firm having its registered office in Warsaw, Poland. Since its establishment in 1990, it has gained market recognition as a reliable and efficient advisor. We find practical solutions for our clients within many areas of legal practice. We undertake to provide highly specialised legal assistance within: real estate market/construction law, foreign investments, mergers and acquisitions, labour law/HR, tax law, energy law, litigation and dispute resolution, bankruptcy/restructuring, debt collection, as well as corporate law. For more information, please, visit our website www.pnplaw.pl

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“Doing Business in Poland – Legal Aspects, 2022”
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INTRODUCTION AND DISCLAIMER

This brief presentation is aimed at providing foreign investors with basic but crucial information on the Polish legal system. For further information, please, visit our home page at www.pnplaw.pl and contact our lawyers.

“Doing business in Poland” takes into consideration legal regulations as at 1 February 2022, except when it is stated otherwise in the brochure.

This document is for information purposes only and it cannot be considered as legal advice on any matter. We have carefully examined all issues to ensure that the information contained herein is credible and up-to-date. However, we do not guarantee the credibility and validity of the material and we are not responsible for any errors or omissions or for any consequences of using the information. Prior to making any decision or taking any action, you should consult your lawyer.



Peter Nielsen & Partners Law Office (PNP Law) is a modern law firm having its registered office in Warsaw, Poland; since its establishment in 1990, it has gained market recognition as a reliable and efficient advisor.

During over 30 years, we have introduced a significant number of foreign companies to the Polish market and we still serve many of them. Our team is helpful, each of us speaks English and enjoys working in a multicultural environment. We find practical solutions for our clients within many areas of legal practice.

Our company is a member of several highly esteemed organisations, i.a. Scandinavian-Polish Chamber of Commerce and the European legal network “Eurolegal”. Moreover, the company actively participates in pro-bono organisations.

We undertake to provide highly specialised and client-oriented legal assistance within:

- ❖ Real Estate/Construction Law,
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- ❖ Corporate Law
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- ❖ European Law

For more information, please, visit our website www.pnplaw.pl

You are welcome to contact us by phone, fax or e-mail from Monday to Friday, 9 a.m. – 5 p.m.

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Dear Readers,

We present you with the next edition of our flagship brochure “Doing Business in Poland”. Our booklet is primarily addressed to foreign entrepreneurs who plan or consider commencing business activity in Poland. The brochure may also be helpful for foreign lawyers whose clients plan on conducting activity in Poland.

This booklet is an outcome of over 30 years of experience of PNP Law in providing legal services to foreign clients. It aims at presenting the most crucial legal and organisational aspects of commencing and conducting business activity in Poland in an easily accessible and practical manner. The brochure also includes a lot of practical statistical information, from up-to-date and foreseen macroeconomic data to data on remuneration in Poland.

The publication of this brochure coincided with yet another significant wave of COVID-19 in Poland. Despite the increase in the incidence of COVID-19 in autumn 2021, the Polish government did not decide to introduce another lockdown. Thus, the autumn wave of COVID-19 did not cause a significant economic damage in Poland.

The gross domestic product (GDP) of the Polish economy is estimated to have increased in 2021 by over 5% as compared to 2020. It is one of the best results in Europe and as soon as in mid-2021, the GDP losses from 2020 were made up for. On the other hand, 2021 will be remembered in Poland as a year of high inflation, high prices of energy and certain construction products, problems in supply chains, as well as shortage of some raw materials and semi-finished products. However, other European countries also struggled with similar economic problems.

Why is Poland an attractive place to conduct your business activity in the years to come?

Firstly, economic forecasts for Poland for 2022 and subsequent years are still optimistic. According to the International Monetary Fund, in 2022, the GDP growth will amount to 5.1% and the unemployment rate will not exceed 3.2%.

Secondly, Poland, with its 38-million consumer market, is the biggest economy in the Central and Eastern Europe. If you decide to commence business activity in Poland, you can certainly count on developed logistics and transport facilities, a modern network of highways and expressways, and an access to highly qualified employees, with still relatively low employment costs. This makes Poland an attractive location for foreign investments, also within the ongoing changes in global supply chains.

Thirdly, enormous investments in energy infrastructure are ahead of Poland in the years to come. They result from international obligations and the necessity to resign from coal which has been the main energy source in Poland so far. It will be necessary to, among others, significantly expand wind and photovoltaic farms, construct nuclear power plants, and also replace millions of coal furnaces in houses, and construct thousands of electric car charging stations. Such a deep energy transformation in Poland constitutes a huge business opportunity also



for foreign companies if they are able to offer in Poland competitive, modern, low or zero emission technologies, and services in the field of energy, construction, and environmental protection.

Finally, I would like to mention that PNP Law actively participates in climate and economic transformation in Poland. We have several years of experience in business and legal advice, i.a. with regard to wind power industry, PV projects and biogas power plants in Poland. We actively encourage CSR-related actions of our clients and members of our own organisation. Moreover, our law firm takes part in the United Nations Global Compact initiative. Our intention is to implement the Ten Principles of United Nations Global Compact on human rights, labour, environment and anti-corruption as part of our strategy, culture and day-to-day operations of PNP Law.

I encourage you to read our brochure and contact our law office.

Paweł Tomasiak, attorney-at-law, partner in PNP Law
Editor of “Doing Business in Poland”

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BUSINESS CLIMATE IN POLAND

1. Welcome to Poland

Poland is renowned for its friendly and hospitable citizens, beautiful nature with a wide variety of attractive landscapes, tourist and sport opportunities as well as rich cultural heritage.

Basic information about Poland

Area	312,685 km²
Population	38.15 million
Capital	Warsaw, 1,794 thousand inhabitants
Currency	1 zloty (PLN) = 100 grosz
Minimum remuneration	PLN 3,010 in 2022
Average remuneration in enterprises sector in November 2021	PLN 6,022.49 gross *

* Central Statistical Agency in Poland (enterprises which employ more than 9 persons)

Another advantage of Poland which has been increasingly acknowledged by foreign businessmen is its modern and stable economy. Poland with its 38-million-consumer market is one of the biggest in Europe. Well-educated Polish economists, engineers, IT specialists and scientists are highly appreciated employees who are readily employed by IT companies, R&D centres and scientific institutes established by foreign companies in Poland.

Key macroeconomic indicators of the Polish economy are presented in the table below.

Indicator	2016	2017	2018	2019	2020	2021
GDP increase (%)***	2.9	4.6	5.3	4.5	-2.7	5.7 estimate
Foreign Direct Investment inflow (EUR million)**	12,588	8,142	13,554	9,694	12,135	no data
Unemployment rate (%)*	6.2	4.9	3.9	3.3	3.2	3.0****
Inflation rate (% year to year)**	0.6	2	1.6	2.3	3.4	5.1****

Source: *Eurostat, **National Bank of Poland (NBP), ***Central Statistical Agency in Poland, **** data as per 11.2021



2. Polish Economy in times of COVID-19

The epidemic of coronavirus, which spread in Europe in 2020, was one of the main business challenges for many companies in Poland in 2021, and may still be a challenge for some of them in the following years. In Poland, as in other European countries, due to restrictions introduced by the authorities, industries related to tourism, gastronomy, hotels, air transport and the so-called event industries have suffered the most. The epidemic also became a huge challenge for public health which in the winter of 2020/2021 and the winter of 2021/2022 was pushed to the brink due to the increasing number of new cases of COVID-19. On the other hand, the epidemic and the restrictions introduced by the authorities were beneficial for industries performing services or sales on-line, courier companies, as well as manufacturers and suppliers of medical equipment, protection accessories (masks, gloves, medical suits) and disinfectants. The hitherto strategy of the Polish authorities, namely mitigation of the negative economic effects of the epidemic, consisted in financial support from public funds for enterprises in order to protect employment and to prevent bankruptcies.

In order to avoid a total economic lockdown, the Polish authorities decided to limit the activities only in those areas of economic and social life which, in the opinion of experts, pose the greatest epidemic threat due to the fact that a significant number of people gather in closed areas, while they do not provide services or offer goods, the so-called basic necessities. Due to the above, shopping centres, restaurants, hotels (except for business stays), cultural and art facilities were temporarily closed. The authorities also decided to temporarily shift schools and universities to the remote learning system. In the periods when the number of coronavirus infections increased, limits were also introduced on the number of people on public transport and those participating in religious services.

In spring 2021, the epidemic situation in Poland noticeably and significantly improved, mainly due to accelerating the vaccination programme against COVID-19. As at the beginning of January 2022, about 56% of people in Poland were fully vaccinated against COVID-19.

The improving epidemic situation and the increasing number of vaccinated people allowed Polish authorities to lift or loosen a large part of restrictions imposed on entrepreneurs and citizens in connection with COVID-19. It has had a significant impact on improving the economic and financial conditions of entrepreneurs operating in Poland in 2021. Despite a significant increase in the incidence of COVID-19 in the autumn of 2021, the Polish government is not planning to introduce another lockdown.

In 2020, due to the epidemic of coronavirus, in Poland, as in other European countries, a decrease in gross domestic product (GDP) was registered. Nonetheless, the decrease in GDP amounting to -2.7%, which was registered in Poland, constituted one of the smallest decreases in GDP compared to other EU countries.

Pursuant to initial projections of the Central Statistical Agency, GDP in Poland in 2021 reached 5.7%.

3. Macroeconomic Forecast for Poland for 2022

According to the International Monetary Fund (IMF), the forecasted GDP growth for 2022 will amount to 5.1% in Poland. The IMF estimates that an average unemployment rate will not exceed 3.2% in 2022.

4. Incentives for Investors

Poland as an EU member has the incentive system which is compliant with the European Community rules. The system is composed of different types of public aid.

New investments in Poland may be supported among others by the following kinds of public aid:

- ❖ corporate income tax exemption,
- ❖ real estate tax exemption,
- ❖ cash grants from EU funds.

Currently, entrepreneurs may apply for support for new projects irrespective of where a project is to be carried out in Poland.

Obtaining a corporate income tax exemption is conditioned upon fulfilling by the new investment certain quantitative (incurring qualified costs of investments in an appropriate amount) and qualitative criteria specified in the provisions.

Moreover, municipalities often use real estate tax exemptions to attract foreign and Polish companies to local projects.

Poland is also a beneficiary of EU aid. Foreign investors may apply for EU cash grants on the same conditions as Polish investors.

The maximum level of public aid depends in particular on the size of an enterprise, the type of aid, and the region of Poland where the investment is to take place.

5. Legal System

The Polish legal system, like many other continental European legal systems is based on the Roman law as opposed to the common law. Although after the Second World War the Soviet legal and economic systems were implemented in Poland and it was not until 1989 that the law started to change in Poland, now our country follows Western European examples. This process has been intensified after Poland made its decision to enter the EU, which obviously meant adjusting to the EU economic system and “*Acquis Communautaire*”.

Poland joined the European Union on 1 May 2004, which naturally resulted in further harmonization of the Polish law with the EU standards.

Although nowadays the Polish law does provide instruments necessary to do business, there is still a number of fields that require substantial changes and improvements. What strikes a foreign investor most is very time-consuming civil court proceedings and bureaucratic administrative procedures as well as an inefficient debt collection system.



FORMS OF BUSINESS ORGANISATION

1. Introduction

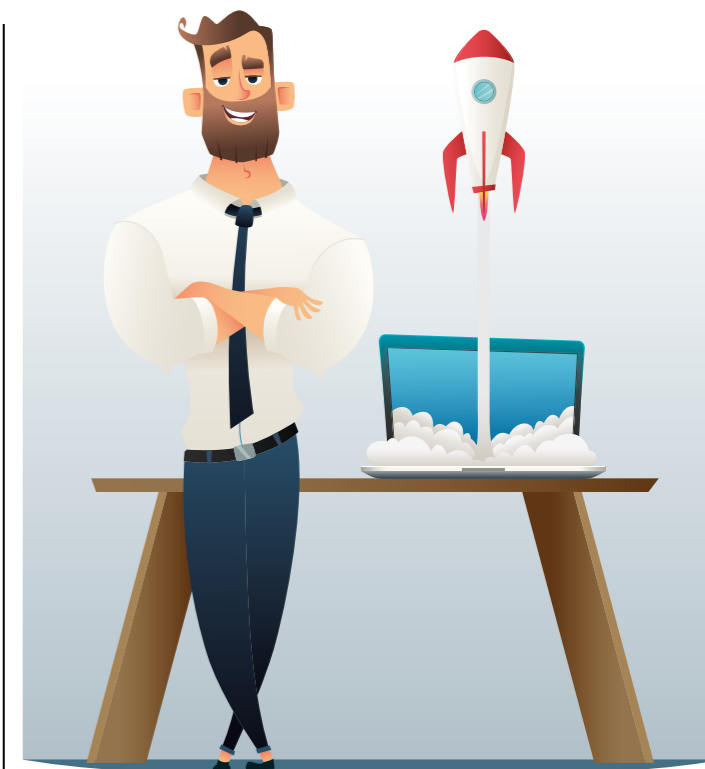
The Polish law provides the following commercial forms of conducting business activity which are not reserved for the State only:

English name	Polish name
Limited liability company	Spółka z ograniczoną odpowiedzialnością abbreviation - Sp. z o.o.
Joint-stock company	Spółka akcyjna abbreviation - S.A.
Simple joint-stock company	Prosta spółka akcyjna abbreviation - PSA
Registered partnership	Spółka jawna abbreviation - sp.j.
Professional partnership	Spółka partnerska abbreviation - sp.p.
Limited partnership	Spółka komandytowa abbreviation - sp.k.
Limited joint-stock partnership	Spółka komandytowa-akcyjna abbreviation - S.K.A
Cooperative	Spółdzielnia
Branch of a foreign entrepreneur	Oddział przedsiębiorcy zagranicznego
Representative office of a foreign entrepreneur	Przedstawicielstwo przedsiębiorcy zagranicznego

Foreign persons from the EU Member States as well as from the Member States of the EFTA which are parties to the Agreement on the European Economic Area (EEA) may conduct business activity in any commercial form available to Polish persons as specified above. It also applies to some citizens of other states who have obtained e.g. a permit to settle or reside in Poland, or a status of a refugee, or tolerated stay.

Other foreign persons may conduct business activity in Poland in the form of a capital company, a limited partnership or a limited joint-stock partnership, unless international agreements provide otherwise.

Furthermore, a foreign person (from non-EU and non-EEA country) conducting business activity abroad, may create a branch or a representative office in the territory of Poland, provided that Polish entrepreneurs may create a branch or a representative office in the state where the foreign person has his/her permanent residence or seat (the rule of reciprocity), unless international agreements provide otherwise..



We recommend that you seek advice of Polish lawyers in order to obtain assistance in choosing an appropriate legal form for the planned business activity in Poland.

Moreover, before commencing the registration procedure of a new company in Poland, you should also choose:

- ❖ an accounting office which will help you to keep accounting books in a manner consistent with Polish regulations,
- ❖ a bank in Poland which will keep bank accounts for the new company.

2. Limited Liability Company

Introduction

A limited liability company is a kind of a capital company which is conducted by a limited number of shareholders. It is the most common legal form of business activity intended for conduct of small and medium-size commercial enterprises. Some large companies also prefer to conduct business activity in the form of a limited liability company because corporate operations in a limited liability company are simpler in comparison with a joint-stock company.

Shareholders in a limited liability company are not liable for company's obligations with their private property with the exception of one case. In accordance with the Polish law, a shareholder may be liable for obligations of a company in organization.

Initial Capital and Shares

The minimum initial capital of a limited liability company is PLN 5,000.00. The initial capital of a company is divided into shares of equal or unequal nominal value. If, pursuant to the deed of association of a company, a

shareholder may hold more than one share, all the shares are equal and indivisible. The minimum nominal value of one share is PLN 50.00.

Contributions of the company's shareholder to the capital of a company can be made either in cash or in-kind.

Governing Bodies

Pursuant to the Code of Commercial Companies and Partnerships, the authorities of a limited liability company consist of:

- ❖ shareholders' meeting,
- ❖ supervisory board or audit commission,
- ❖ management board.

The supervisory board or the audit commission has to be appointed in companies whose initial capital exceeds PLN 500,000.00 and which have more than twenty-five shareholders. In other situations, establishing the supervisory board or the audit commission is not necessary.

Shareholders' Meeting

The Shareholders' Meeting is the superior authority of a limited liability company.

Shareholders' meetings are held at the registered office of the company or in another place in the Republic of Poland if all the shareholders agree to it in writing.

Decisions of the Shareholders' Meeting are adopted as resolutions of shareholders.

Resolutions of the shareholders are required among others in the following matters: amending the company's deed of association, approval of annual financial statements and the report of the management board, increasing or decreasing of the initial capital, decision on allocating a profit or covering losses, as well as acquisition and disposal of real estates.

Resolutions of the shareholders' meeting should be taken by an absolute majority of votes, unless the deed of association or the regulations of law provide otherwise. The absolute majority of votes means more than half of the votes cast.

Supervisory Board and Audit Commission

Members of a supervisory board or an audit commission are appointed and dismissed by resolution of shareholders, unless the deed of association provides otherwise.

The Polish law stipulates that the powers of the supervisory board in a Polish limited liability company are limited to a broadly described control and supervision. The supervisory board does not have the right to give the management board any binding instructions with respect to management of company's affairs.

The powers of the audit commission are even more limited than the powers of the supervisory board. However, the deed of association may expand duties of the audit commission in the company which does not have the supervisory board to cover also the powers of the latter.

Management Board

The management board is the supreme executive authority, and the only authority having the right to represent and sign for a company.

The management board represents a company and manages its daily affairs.

Representing the company consists in actions which engage third parties, e.g. conclusion of agreements with contractors, disposal of rights of the company, whereas managing the company consists in actions concerning the company itself, first of all dealing with a day-to-day activity of the company, including giving professional orders to employees and supervising company's activity.

Members of the management board are appointed and dismissed by resolution of shareholders, unless the deed of association provides otherwise.

3. Joint-Stock Company

A joint-stock company resembles in some aspects a limited liability company. Both are capital companies. Shareholders of a joint-stock company are not liable for company's liability with their private property, with the exception of one case. In accordance with the Polish law, a shareholder may be liable for obligations of a company in organization.

A joint-stock company is regarded as a more formal kind of company than a limited liability company. There are many particular regulations providing the duties, obligations and procedures which have to be performed by a management board or a supervisory board. Moreover, a shareholder in a joint-stock company has definitely fewer rights than a shareholder in a limited liability company. The rights to control company's activity and its personal composition are limited.

Major differences between joint-stock and limited liability companies

Type of a company	Joint-stock company	Limited liability company
Minimum share capital	PLN 100,000	PLN 5,000
Minimum value of one share	PLN 0.01	PLN 50
Formalities of shareholders' meetings	All minutes have to be recorded by a notary	Not all the minutes have to be recorded by a notary
Supervisory board	Obligatory	Shareholders have to appoint a supervisory board or an audit commission if an initial capital exceeds PLN 500,000 and there are more than 25 shareholders
Restrictions on distribution of profit	Part of net profit (at least 8%) must be transferred annually to the supplementary capital until it reaches 1/3 of the share capital	No part of net profit needs to be transferred to the supplementary capital, unless deed of association provides otherwise

4. Simple Joint-Stock Company

In principle, this type of a company is to be mainly used for conducting business activity by start-ups. However, due to its flexibility, this new type of company has a chance to become an attractive form of conducting business activity also for other entrepreneurs.

The main features of a simple joint-stock company include i.a.:

- ❖ possibility to establish and register a simple joint-stock company electronically, no-par value stocks,
- ❖ possibility to acquire stocks in return for providing work or services,
- ❖ capital stock from PLN 1,
- ❖ flexibility in forming company's authorities: by the deed of association, it is possible to appoint the Board of Directors which fulfils the function of the authority both representing and supervising the company (the Board of Directors instead of the Management Board and the Supervisory Board),
- ❖ possibility to appoint executive directors among the Board of Directors to conduct certain or all activities related to running the enterprise of the simple joint-stock company, introducing mechanisms for creditors' protection,
- ❖ simplification in functioning of company's authorities.

5. Partnerships

According to the Polish law, there are four types of commercial partnerships:

- ❖ registered partnership (spółka jawna – sp.j.),
- ❖ professional partnership (spółka partnerska – sp.p.),
- ❖ limited partnership (spółka komandytowa – sp.k.),
- ❖ limited joint-stock partnership (spółka komandytowo-akcyjna – S.K.A.).

Partnerships do not have a legal personality, although they may acquire rights in their own name, including the right of ownership of a real estate. They also may incur obligations as well as sue and be sued.

The most important feature of a partnership is the liability of partners for partnership's obligations. With some exceptions, partners are personally and without limitation liable for partnership's obligations.

Furthermore, it is worth mentioning that it is possible for a capital company to have a sole shareholder, while a partnership should have at least two partners.

Transfer of all rights and obligations of a partner in a partnership to another person is possible if the deed of association provides so.

A partnership comes into existence upon entry into the National Court Register.

6. Cooperative

According to the legal definition, a cooperative is "a voluntary association of an unlimited number of persons with changeable personal composition and changeable share fund". A cooperative conducts common business activity to the benefit of its members; it may also conduct welfare activity and activity connected with culture and education to the benefit of its members.

This form of business activity was very popular before 1990, in the socialist economy. In the capitalist economy it is losing its popularity. Yet, it is still an important form of business activity in the housing sector and dairy industry.



7. Self-employment (Sole Trader or Sole Proprietorship)

Self-employment is the custom term used to name a personal business activity conducted by one person.

From the point of view of the civil, tax and social security law, a self-employed person is regarded as an entrepreneur. As a consequence, a self-employed person and a recipient of his/her services or work do not co-operate with each other on the basis of an employment contract, but rather on the basis of a business agreement between two entrepreneurs.

8. Branch and Representative Office

A foreign person who conducts business activity abroad may create a branch or a representative office in the territory of Poland, provided that Polish entrepreneurs may create branches or representative offices in the state where the foreign person has his/her permanent residence or seat (the rule of reciprocity), unless international agreements provide otherwise. The rule of reciprocity is excluded for foreign entrepreneurs from the European Economic Area (EU Member States, Iceland, Liechtenstein, Norway). Consequently, such foreign entrepreneurs may create branches or representative offices without any restrictions connected with the rule of reciprocity.

A representative office may conduct business activity exclusively within the scope of advertising and promotion of the foreign entrepreneur, whilst a branch may conduct business activity within the entire range of the entrepreneur's activity.

9. Permits

Generally, no prior permits from the Polish authorities are required to establish business activity in Poland. Nevertheless, if an entrepreneur intends to start performing certain activities, they have to obtain a concession, permission or licence from a relevant authority. Furthermore, some particular activities may be performed under additional conditions and upon registration in separate registers of regulated activities.

Moreover, an intention to establish a new entrepreneur by two or more entrepreneurs may be subject to examination by the President of the Office for Competition and Consumer Protection. If, according to the regulations, the intention to establish an entrepreneur is subject to examination by the President, the new entrepreneur may not be established without a prior consent of the President of the Office.

10. Registration Procedures

An entrepreneur who is going to start business activity in Poland is obliged to complete the following registration procedures:

- ❖ registration of the business activity in the National Court Register or other relevant register,
- ❖ registration of the entrepreneur in the Voivodship Statistical Office,
- ❖ opening of a bank account,
- ❖ registration in the local tax office,
- ❖ registration in the Social Insurance Institution (ZUS),
- ❖ registration in the register of beneficial owners (CRBR).

Except for sole traders and foreign representative offices, all legal forms of business activity should be registered in the National Court Register. Business activity in the form of a sole trader has to be notified to the Central Register and Information on Business Activity, whereas a foreign representative office has to be entered into the register of foreign entrepreneurs' representative offices kept by the Ministry of Economic Development and Technology.

All entities registered in the National Court Register are automatically registered in the Statistical Office and obtain a statistical identification number (REGON). Moreover, except for a branch office of a foreign entrepreneur, all entrepreneurs registered in the National Court Register are automatically registered in a relevant tax office and obtain a tax identification number (NIP).

Furthermore, almost all new business entities in Poland are obliged to notify the register of beneficial owners (CRBR) on the data on their beneficial owners and representatives.

11. Timing and Costs of Establishment of Business Activity

It is worth knowing that standard registration procedures (National Court Register, statistical office, tax office) last between 1 and 3 weeks.

If a licence or permit for business activity is necessary, the procedure takes additional 4 to 10 weeks.

The costs of the establishment of business activity depend on the legal form chosen for conducting business activity in Poland.

As an example below, we present the main costs related to establishment of a limited liability company with a minimum initial capital (PLN 5,000), assuming that no permit, concession or licence is necessary and that the company is not being established electronically.

Cost	Sum	Description
Tax on civil law transactions	PLN 25	the tax rate is 0.5% of the initial capital
Notarial fee	approx. PLN 200	cost of drawing up deed of association by a notary; certified copies of the deed are issued for a separate fee
Court registration fee	PLN 500	cost of registration of a company in the court register
Publication in court journal MSiG	PLN 100	cost of announcement on registration of the company
Lawyer's fee		as agreed between the client and lawyer



12. Electronic Registration of Some Types of Companies in Poland

If an investor wants to save time during the start-up process of his/her business in Poland, they can establish certain types of companies in Poland electronically. Electronic registration usually takes a few days and may be even 1–2 weeks faster than a standard paper-form registration. However, one thing to consider is that, for technical reasons, a Polish professional adviser should assist in electronic registration of a company. Moreover, there are some corporate law limitations concerning companies established electronically.

13. E-signatures and Digitalisation Process in Poland

Electronic signatures are increasingly used in the administration, accountancy, tax procedures, as well as economic relations in Poland. In certain industries, signing contracts between entrepreneurs in an electronic form becomes more and more popular. Pursuant to Polish regulations, the declaration of intent submitted in an electronic form is equal to the declaration of intent submitted in writing (i.e. equal to parties' handwritten signatures). The popularity of electronic signatures has grown due to the COVID-19 epidemic situation and temporary restrictions on mobility. This is because signing documents in an electronic form does not require the presence of both parties to a transaction, and at the same time, it is much quicker than sending a paper version of a contract to be signed.

Already now, certain documents may be signed and certain actions may be conducted only with the use of electronic signatures or an entrusted profile (ePUAP) created in Poland. This pertains, among others, to:

- ❖ signing financial statements,
- ❖ reporting beneficial owners to the Polish Register of Beneficial Owners (CRBR),
- ❖ submitting financial documents to the National Court Register,
- ❖ registering and reporting changes in the National Court Register.

Therefore, when establishing a business activity in Poland, it is necessary to obtain tools for managing persons which will allow them to sign documents in an electronic form i.e. a qualified electronic signature obtained in Poland, or an entrusted profile (ePUAP)..

ACCOUNTANCY

Business entities established in Poland must adhere to Polish accounting standards. All entities operating in Poland are obliged to keep the accounting records in the Polish currency and in the Polish language.

The company has to either keep its accounting records in its registered office or entrust them to a third party authorised to run business activity in this respect. If a third party keeps the accounting books, the tax office should be informed about this fact.

In Poland, the obligation to draw up annual financial statements is imposed, among others, on all capital companies and some partnerships.

In principle, drawing up financial statements in companies should take place in accordance with Polish accounting standards. However, in the case of certain entities, financial statements need to or may be drawn up in accordance with the International Financial Reporting Standards (IFRS). Moreover, the companies listed on the Stock Exchange need to report the financial statements covering the period from 1 January 2021 according to the ESEF (European Single Electronic Format) standards.

The manager of a reporting entity is responsible for drawing up financial statements within 3 months of the reporting date, and for presenting them to the competent governing bodies.

The approving body should approve the annual financial statements within 6 months of the reporting date, i.e. the accounting reference date on which a reporting entity draws up its financial statements.

The financial year means a calendar year or any other period covering 12 consecutive full calendar months, also for tax purposes. The entity's financial year or any changes thereof are specified in a deed of partnership or company formation, or deed of association, on the basis of which the reporting entity was formed or incorporated.

In entities registered in the National Court Register, the manager of the reporting entity has to file with an appropriate court register the annual financial statements, as well as other relevant documents connected with the financial year and specified in the regulations, within 15 days of the date of approval of the annual financial statements.



TAXATION

1. Companies

The scope of taxation depends on the status of a taxpayer: resident or non-resident. In other words, the Polish Corporate Income Tax Act provides the rule of unlimited and limited tax liability. The unlimited tax liability means that companies which have their registered office or place of management in Poland are liable to Polish corporate income tax (CIT) on their worldwide incomes. The limited tax liability means that a taxpayer who does not have a seat or management in Poland pays the tax levied on the income earned only within the Polish territory.

Partnerships (except for professional partnerships as well as registered partnerships under some conditions) are also liable to Polish corporate income tax (CIT). Furthermore, revenues derived and costs borne by partnerships formed by companies are subject to CIT based on the proportion of the corporate partners' participation.

Corporate Income Tax Rate

The basic rate of **income tax** for companies in 2022 is **19%**.

However, the entrepreneurs who:

- ❖ start their business activity in a given fiscal year or
- ❖ have the status of a so-called small taxpayer of CIT pay CIT at a **reduced rate of 9%** of incomes other than capital gains.

The CIT taxpayer has to fulfil an additional condition to qualify for 9%, and not 19%, CIT rate. Namely, their total revenues achieved in a given fiscal year may not exceed the equivalent in PLN of EUR 2 million.

Currently, a small taxpayer of CIT is an entity with sales revenues (together with an output VAT) which did not exceed an equivalent of EUR 2 million in a previous fiscal year.

Taxable business income comprises all profits generated by any non-agricultural business activity, i.e. trade, services, and transport. A loss may be deducted against the taxable income over five consecutive tax years. The deduction in a given year may not exceed 50% of the loss being deducted.

As regards losses incurred in 2021 and subsequent fiscal years, it will be possible to make a one-off deduction of such loss against the income achieved in one of the five subsequent fiscal years. However, the maximum amount of such one-off deduction of loss against the income may not exceed PLN 5 million. The amount of loss not deducted in such a way may be subject to deduction from income in the remaining years of the 5-year period, however the deduction in any of these years may not exceed 50% of the amount of loss. Losses must not be carried back or deducted against the income of the previous fiscal year (exceptionally, the regulations adopted in connection with COVID-19 allowed, in special cases, to deduct the loss incurred in 2020 from 2019).

Corporate tax is payable annually. However, advance payments have to be made each month. Small taxpayers of CIT and entities launching their

businesses (in the first fiscal year) may choose to pay advances to CIT quarterly.

As of 2022, some CIT taxpayers may be obligated to pay the minimum tax. The introduction of this tax was justified by the fact that large foreign corporations took advantage of the loopholes of the Polish tax system, which so far allowed them to avoid paying CIT or to pay it in the amount disproportionate to revenues. The new tax obligation will be imposed on companies whose share of income in revenues in a given year amounted to less than 1% or in a situation in which the company incurred a loss in a given tax year. However, not all costs will be included in the calculation of the tax base. The tax rate will be 10% of the tax base, which will amount to 4% of the company's revenues (other than from capital gains) and a part of the amounts incurred on behalf of related entities. The group of entities exempt from paying the minimum tax includes, among others, newly established companies (up to 3 tax years), companies which in a given tax year generated 30% less revenue compared to the previous year, or companies whose shareholders/partners are only natural persons and who do not hold shares in other entities.

Dividends and Capital Gains

Dividends and other capital gains are subject to 19% lump-sum rate of withholding tax. Dividends paid by Polish subsidiaries to parent companies are tax-free provided that the following conditions specified in the Polish Corporate Income Tax Act are met:

- ❖ the company which pays the dividend has its registered office or its management in Poland,
- ❖ the company which obtains income from the dividend is subject to taxation on its worldwide incomes in Poland, in another EU Member State, or in a country which belongs to the European Economic Area,
- ❖ the parent company has been holding at least 10% (25% in the case of Switzerland) shares in its Polish subsidiary for an uninterrupted period of at least 2 years,
- ❖ the parent company does not use a CIT exemption on its total income, regardless of its source.

Double Taxation Treaties and Certificate of Residence

Poland has concluded over 90 double taxation treaties. The majority of double taxation treaties set the withholding tax rate at the level of 5–15% while providing for the possibility of 0% rate.

Polish entities which make payments to foreign persons in the form of interest, dividends and other income from a share in profits of legal persons are deemed as tax remitters and are obliged to collect withholding tax on the date when such payments are made. However, it is possible to apply a reduced rate or not to collect the tax if a double taxation treaty concluded by Poland and the country of the recipient's residence provides so. In such a case, it is necessary to document the tax residence of the beneficiary of the payment (with a certificate of residence). The certificate of residence is a document used for tax



purposes to certify that the tax residence of a foreign person is in a country with which Poland has concluded a tax treaty. Entities collecting the withholding tax are obliged to exercise due diligence when verifying the conditions to apply the reduced rate or not to collect the withholding tax.

When the total sum of the receivables paid as a share in profits and license receivables paid to a given entity exceeds PLN 2 million in a fiscal year, the sum exceeding PLN 2 million is subject to special rules of taxation and collecting the withholding tax. In particular, the entity paying such receivables is, as a rule, obliged to collect the withholding tax from the surplus and remit it to the tax authority in Poland, notwithstanding the provisions of the double taxation treaty. However, a refund of the withholding tax takes place upon an application supported by the documentation required by the provisions, which enables the tax authority to examine the validity of the refund. The obligation to collect the withholding tax from the surplus over PLN 2 million may be avoided only when a special representation is filed with the tax authority or an opinion on tax exemption is obtained.

Lump-sum on company income

Companies may use an alternative method of taxation, the so-called Estonian CIT, i.e. a lump-sum on the income of capital companies and certain partnerships (limited partnership and limited joint-stock partnership, as long as their partners are only natural persons). This method of taxation promotes investments and minimizes formalities in the settlement of income tax, as it consists in deferring the payment of income tax until the profit is distributed to shareholders or partners. As of 2022, the rates will be 10% for small companies and 20% for larger entities.





Special tax regulations for real estate companies

The year 2021 witnessed the introduction of new tax regulations for real estate companies. In particular, in connection with new tax regulations, real estate companies have become income taxpayers for the disposal of shares in such company which provide at least 5% of rights to vote or to participate in company's profit, in case the seller of shares is an entity not being a Polish resident.

In general, real estate companies are those entities which meet all of the below conditions:

- ❖ real estates located in Poland constitute at least 50% of the value of assets, and
- ❖ the value of those real estates exceeds PLN 10 million, and
- ❖ at least 60% of the total tax income in the previous fiscal year was generated from lease, real estate leasing or agreements of a similar nature, or from the rights concerning real estates, or from other real estate companies.

The legislator has provided for a different definition of a real estate company in the case of entities commencing their business activity.

2. Individuals

Income tax is payable to the State Treasury. There are no income taxes collected by local and regional authorities, or the church.

The above mentioned difference (see item 1) between the unlimited and limited tax liability applies also to individuals. Persons who are residents of Poland are subject to the unlimited tax liability.

Taxation of Foreigners

The place of residence determines the tax liability. Persons who have their place of residence in Poland are obliged to pay tax on their overall income in Poland. Persons who do not have their place of residence in Poland are

obliged to pay tax in Poland only on the incomes earned or arising from a source in Poland. The above regulations apply unless the provisions of international agreements provide otherwise.

Pursuant to the Polish tax regulations, a resident is a natural person whose place of residence lies within the territory of the Republic of Poland. Such a natural person is considered to be:

- ❖ a person whose centre of personal or economic interests is located in Poland, or
- ❖ a person who stays in Poland for more than 183 days in a year.

Incomes earned within the territory of Poland by individuals taxed on the basis of the limited tax liability are in some cases subject to lump-sum rates.

Personal Income Tax Rates

As a general rule, revenues of any person (foreign or domestic) are subject to two taxation rates: **17%** and **32%** depending on the sum of the income (progressive rate).

Starting from 2022, the tax-free allowance of PLN 30,000 has been introduced for all taxpayers whose income is subject to taxation according to the progressive tax scale, including entrepreneurs (there is no tax-free allowance for entrepreneurs whose income is taxable with a flat rate).

The 17% tax rate is applied to the tax base not exceeding PLN 120,000. The surplus over this amount is taxed at the rate of 32%.

Accordingly, income taxation in both thresholds is as follows:

The basis for calculating the tax in PLN		The amount of tax
Above	Up to	
	120,000	17% minus the tax reduction of PLN 5,100
120,000		PLN 15,300 + 32% of the surplus over PLN 120,000

Starting from 2022, all individuals are to pay health insurance contributions in proportion to their income, without the possibility of their deduction from tax.

The minimum health insurance contribution is PLN 270.90, and the maximum amount will be 9% of the income. In the case of individuals conducting business activity, the amount of the health contribution will depend on the chosen method of income taxation.

Taxation of Business Activity

Persons who conduct any non-agricultural business activity (but not on the basis of a management contract) may choose either the standard progressive scale or the flat rate of 19%.

Moreover, some entrepreneurs, if they meet additional conditions, may also choose a simplified form of taxation with an even lower tax rate: a lump-sum based on recorded revenues. However, in this method, the revenue earned by the entrepreneur is the tax basis, and costs are not taken into consideration. Therefore, this method of taxation may be advantageous mainly if the conducted business activity generates low costs.

Duties of Tax Remitters and Taxpayers

Employers as tax remitters are obliged to calculate and collect tax advance payments from persons who receive revenues under employment relationships or on the basis of agency contracts or contracts for specific work. Tax advance payments increase during the tax year when the thresholds in the progressive scale are exceeded.

A taxpayer has to submit a tax declaration that covers income from the previous year. The declaration has to be delivered until 30 April of the following year.

Income Tax on Revenues from Buildings

This income tax variant takes as the subject of taxation revenues from a fixed asset being a building located in the territory of the Republic of Poland:

- ❖ which is owned or co-owned by the taxpayer and
- ❖ which has been handed over for operation on the basis of a tenancy, lease, or similar contract.

The initial value of the building resulting from the kept records of fixed assets is the revenue from the building. Such initial value should be determined as at the first day of each month. In the month when the

fixed asset is entered in the records, the initial value set as at the day of entering the fixed asset into the records is the revenue from the building.

The tax basis is the sum of revenues referred to above from the individual buildings, reduced by PLN 10 million. The tax rate is 0.035% of the tax base for each month. This tax has been suspended for the duration of the COVID-19 epidemic.

3. Other Taxes

VAT and Excise Duty

Rates of VAT in Poland:

- ❖ standard rate – **23%** (applicable to the majority of goods and services),
- ❖ reduced rates – **8%** and **5%**,
- ❖ preferential rate – **0%**.

In Poland, motor fuels, gas, alcohol and tobacco products, and electricity are among the goods subject to excise duty.

Local Taxes

Local taxes include real estate tax, transportation tax imposed on trucks and buses, inheritance and donation tax, agricultural tax, forestry tax, and dog tax. Local taxes are a part of own revenues of local governments.



REAL ESTATES

1. Acquisition of Real Estates by Foreigners

A foreigner acquiring an ownership right or a perpetual usufruct right to a real estate is required to obtain a permit from the Minister of Internal Affairs. The same is required from a foreigner who acquires or takes up shares in companies based in the territory of Poland that are owners or perpetual usufructuaries of real estates located in Poland.

At present, the limitations regarding acquisition of real estates do not apply to citizens or entrepreneurs from the European Economic Area states (i.e.: EU Member States, Norway, Iceland and Liechtenstein) and from Switzerland. Citizens and entrepreneurs of those countries are allowed to acquire real estates in Poland and shares in companies that are owners or perpetual usufructuaries of real estates in Poland pursuant to legal rules similar to those applicable in the case of acquisition of real estates by Polish citizens or companies.

Pursuant to the law, a foreigner is defined as:

- ❖ a natural person not possessing Polish citizenship,
- ❖ a legal person having its seat abroad,
- ❖ a partnership with its seat abroad, established by natural and/or legal persons described above in accordance with the law of a foreign country,
- ❖ a legal person or a partnership having its seat in Poland, controlled directly or indirectly by a foreigner(s).

In order to obtain the permit, a foreigner must submit a relevant application.

The Minister of Internal Affairs issues the permit upon a foreigner's application if such purchase of a real estate by the foreigner does not pose any risk to state defence, security or public order, and the foreigner proves their relations with Poland.

The circumstances confirming foreigner's ties with Poland may include, in particular:

- ❖ Polish nationality or Polish origin,
- ❖ marriage with a Polish citizen,
- ❖ permanent or temporary residence permit,
- ❖ membership in a managing body of companies registered in Poland.

The permit is valid for two years from the issue date. A sale contract should be concluded and executed within that time limit.

Except for the general exemption related to citizens or entrepreneurs from the European Economic Area states, the law provides also for other exceptions from the obligation to obtain a permit, i.a.:

- ❖ purchase of residential premises,
- ❖ purchase of a real estate that will be joint marital property by a foreigner whose spouse is a Polish national and who has been residing in Poland for at least two years from the issuance of a permanent residence permit,
- ❖ purchase of a real estate by a foreigner who has been residing in Poland for at least five years from the issuance of a permanent residence permit,
- ❖ purchase of a real estate by a foreign bank, which is a mortgagee, after an ineffective auction under execution proceedings.



2. Acquisition of Agricultural Real Estates

Polish regulations provide for specific restrictions on purchasing agricultural real estate. The restrictions relate to purchasing both ownership rights and perpetual usufruct rights to agricultural real estate. No restrictions apply only to small agricultural real estate with an area smaller than 0.3 ha or to real estates which serve as internal roads.

As a rule, only a full-time farmer may purchase an agricultural real estate. A full-time farmer is understood as a natural person who is an owner, perpetual usufructuary, own-like possessor or a lessee of agricultural real estate with a total area of no more than 300 ha of arable land. In addition, a full-time farmer has to be appropriately qualified, reside for at least 5 years in the commune where one of the agricultural real estate being part of the agricultural farm is located, and personally run the farm during that time.

Apart from full-time farmers, agricultural real estates may also be purchased by the following persons, i.a.: seller's close relatives, self-governmental units, the State Treasury, church legal persons, national parks for the purposes related to environmental protection, as well as persons and entities who become owners as a result of inheritance or specific bequest or restructuring proceedings within the financial recovery proceedings or by merger, demerger or transformation of a company.

In all other cases, a consent of the Director General of the National Centre for Support of Agriculture is required to purchase an agricultural

real estate. The consent is issued at seller's request if all of the following conditions have been met:

- ❖ the seller demonstrates that there has been no possibility for the agricultural real estate to be bought by full-time farmers;
- ❖ the purchaser undertakes to carry out agricultural activity on acquired estate;
- ❖ the purchase of the real estate does not cause an excessive concentration of arable land.

The consent may also be issued at a request of the purchaser who is a natural person intending to establish a family agricultural farm, who meets the requirements set forth in the law regarding individual farmers, and who will undertake to reside in the commune where one of the agricultural real estate is located.

It should be also noted that in case of transfer of shares in companies that are owners or perpetual usufructuaries of agricultural real estate exceeding 5 ha, the law provides also for limitations in the form of a pre-emption right for the State Treasury or a buy-out right in the case of transfers other than sale of such shares.

3. Legal Form of Real Estate Transfer

In Poland, acquisition of a real estate requires that a contract between a seller and buyer be drawn up by a notary in the form of a notarial deed.



LABOUR LAW

Labour law is one of the most important branches of business law. It is also subject to frequent changes. The Polish labour law has been adjusted to the European regulations.

1. Employment Contract in General

A labour relationship arises by an employment contract or by an appointment act.

In further description of the labour law, we will focus on employment contracts as the most popular form of labour relationships. The employment contract may be agreed for an indefinite term, for a fixed term, or for a trial period no longer than 3 months. The purpose of concluding an employment contract for a trial period is to check the qualifications of an employee and the possibility of employing a given employee to perform a certain type of work. The contract should be made in writing, with the type, and terms and conditions of contract explicitly outlined.

2. Termination of Employment Contract

A contract may be terminated:

- ❖ on the basis of a mutual consent of both parties,
- ❖ with or without notice by either party,
- ❖ after the lapse of the period for which it has been concluded.

An employment contract may be terminated without notice only due to the reasons indicated in the Labour Code. The termination of the contract with notice is not subject to any further conditions. However, the employer is always obliged to give the employee a reason which justifies the termination. The reason for termination should be included in the termination letter if a contract for an indefinite term is going to be terminated. In the case of a contract for a trial period, the notice period depends on the agreed length of the trial period..

In the case of the contract for an indefinite term or for a fixed term, the notice period depends on the period of employment with a given employer and it is:

- ❖ two weeks if the employee has been employed for less than 6 months;
- ❖ one month if the employee has been employed for at least 6 months;
- ❖ three months if the employee has been employed for at least 3 years.

3. Remuneration in Poland

Remuneration for work should be determined in a manner corresponding to a particular type of work performed and qualifications required for that work's performance. It must also take into account the quantity and quality of the work performed.

Salary rates referred to in statistical data and discussed during job interviews with possible candidates in Poland are gross sums. Gross sums are calculated as a net salary plus costs of social contributions and the tax paid by employees. A super gross salary is understood as the total

cost of an employee borne by the company (a gross salary plus social contributions paid by an employer). Rates of social contributions are described in the further part of this brochure, in the Compulsory Insurance Rates section.

Sample net, gross and super gross salary calculation is presented in the table below.

Net salary (paid to the employee)	Gross salary (net salary plus social contributions & tax paid by the employee)	Super gross salary (gross salary plus social contributions paid by the employer, i.e. total cost of employing the employee in the company)
PLN 3,660.20	PLN 5,000	PLN 6,024

The state specifies the minimum remuneration for work as well as minimum hourly rate. In 2022, the minimum monthly remuneration is PLN 3,010 gross. In addition to the regular remuneration, the employer is obliged to pay bonuses for overtime work according to the rules specified in the Labour Code.

The average gross monthly remuneration in Poland reached PLN 6,022.49 in the sector of enterprises (as of November 2021).

The salary levels vary depending on the sector and the company's geographical location. According to the data of the Central Statistical Agency for the period from January to September of 2021, the highest salaries were paid in the information and communications technology sector: PLN 9,969.97 gross on average, whereas the lowest salaries were paid in the sector of accommodation and catering activities: PLN 4,137.32 on average. In the third quarter of 2021, the best remunerated region was the Mazowieckie Voivodeship with the average of PLN 6,958.06 gross. The lowest average remunerations were paid in the Podkarpackie Voivodeship: PLN 5,126.34.

4. Working Hours

As a general rule, working hours must not exceed 8 hours a day and an average of 40 hours per 5-day working week within an adopted accounting period not exceeding 4 months. Overtime work must not exceed 150 hours a year. A weekly working time including overtime work must not exceed an average of 48 hours within an adopted accounting period. Work schedules with the working time extended up to the limits specified by the labour law may be applied if it is justified by the type of work or organisation of work.

5. Employees' Leaves

An employee is entitled to an annual, continuous, paid holiday leave. An employee's right to the leave may not be renounced. Pursuant to the Labour Code, the minimum period of an annual leave is 20 working days. After 10 years of work an employee is entitled to a leave of 26 working days. An employee is entitled to a regular salary for the period of leave.



6. Retirement

A regular retirement age in Poland is 60 years for women and 65 years for men.

7. Compulsory Insurance Rates

In principle, the gross remuneration of an employee constitutes the basis for calculating contributions to the retirement, pension, sickness, accident and health insurance, the Labour Fund, the Guaranteed Employees' Benefits Fund and the Early Retirement Fund.

An employee's gross remuneration is decreased by: an entire sickness insurance contribution, an entire health insurance contribution, part of retirement and pension insurance contributions. An employer pays from its own funds: the remaining part of retirement and pension insurance contributions, an entire accident insurance contribution, contributions to the Labour Fund, the Guaranteed Employees' Benefits Fund, and the Early Retirement Fund (this last fund is applicable to work in special conditions or of a special nature).



RESIDENCE AND EMPLOYMENT OF NON-EU COUNTRIES' CITIZENS IN POLAND

Poland has acceded to the Schengen Agreement, which is aimed at the abolition of physical borders among the European countries. Since the implementation of the Schengen rules, internal border posts between participating countries have been closed.

The information concerning citizens of the EU, the European Economic Area, and Switzerland is presented in the next chapter.

On 31 December 2020, the transition period after the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union ended. The conditions of stay, work and business activity of the UK citizens in Poland after 1 January 2021 depend on whether and how long a given person stayed in Poland before the end of the transition period, i.e. before 31 December 2020. The UK citizens and their family members who are not beneficiaries of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union, and who do not have a permanent residence card may undertake, continue and pursue business activities on the terms applicable to citizens of third countries, i.e. Switzerland and countries which do not belong to the European Union or the European Economic Area.

1. Visas

Visas are issued only for a definite period of time and only for a particular purpose.

The Schengen visa (visa of "C" category) is granted to the persons who intend to stay in the territory of Poland or other Schengen country up to 90 days (approx. 3 months) in total (during one or several travels), within each 180-day period (approx. 6 months), counted from the date of entry into the territory of a Member State, or who intend to move within the Schengen territory for transit purposes.

Apart from visas of "C" category, Polish consulates issue visas of "D" category (national visa). Such visa is granted to the persons who intend to stay in the territory of Poland for more than 90 days in total (during one or several travels) within one year from the date of the first entry. The national visa permits to stay in the territory of Poland during the period of validity for which the visa has been granted and additionally to move within other Schengen countries up to 90 days within each 180-day period, counted from the date of entry into the territory of a Member State. The validity period of a national visa may not exceed 1 year.

The national visa is granted by a Polish consulate (or a consular department of a Polish embassy) if a foreigner stays abroad, and it may be prolonged by a voivode if the foreigner stays in Poland. The Schengen visa is granted at the border by the commander of the Border Guard checkpoint.

2. Temporary Residence Permit

A temporary residence permit is granted for a period necessary to achieve the foreigner's purpose of stay in the territory of the Republic of Poland, however for no longer than 3 years. In order to obtain a temporary

residence permit, a foreigner has to document the reasons for which he/she wants to stay in Poland for a period longer than 3 months.

These reasons might include for example:

- ❖ taking up or continuing work in the territory of Poland,
- ❖ performing work by a foreigner posted to Poland by a foreign employer,
- ❖ conducting business activity in Poland,
- ❖ taking up or continuing studies in Poland,
- ❖ performing seasonal work.

The foreigner staying in Poland in order to perform work may apply, within one procedure, for a permit both for work and stay in our country.

The permit is granted only by voivodes and the procedure lasts no less than 6–8 weeks. An application for a temporary residence permit should be submitted personally, no later than on the last day of the foreigner's legal residence in the territory of Poland.

A foreigner may also obtain a permit for permanent residence in Poland. The foreigner who has been granted a permit to settle in Poland does not need a permit for work in Poland. A permanent residence permit is granted for an indefinite period.

3. Permanent Residence Permit

In some situations listed in the regulations, a residence permit may be granted for an indefinite period, e.g. when a foreigner is married to a Polish citizen, and the marriage is recognized in the territory of Poland, and the foreigner has been married for the period of at least 3 years prior to filling the application, and the foreigner has stayed in the territory of Poland for at least 2 years on the basis of the temporary residence permit.

4. Residence Permit for Long-Term Residents of European Community

Foreigners who have resided legally and continuously within the Polish territory for at least five years may be granted a long-term resident's status.

The Polish authorities may refuse to grant a long-term resident's status on the basis of public policy or public security. The procedure is conducted by voivodes and may not exceed 3 months.

5. Residence Card

A foreigner applies for a residence card on the basis of the decision with a consent to residence. The residence card is a document which confirms the foreigner's identity during his/her stay in Poland.

6. Visa-Free Traffic

A visa-free traffic applies to Poland with regard to the citizens of some countries. These are, for instance, the citizens of Albania, Argentina, Ukraine, and Moldova. The list of the countries whose citizens may travel to Poland without visas may be found, inter alia, on the Ministry of Foreign Affairs' website. The total period of staying in the territories of all Member States without the necessity to obtain a visa may not exceed 90 days within each 180-day period.

7. Employment of Foreigners

Foreigners are entitled to perform work in the territory of Poland if, among others, they:

- ❖ have a status of a refugee granted in Poland,
- ❖ have a permanent residence permit,
- ❖ have a long-term EU-resident permit,
- ❖ are citizens of an EU Member State,
- ❖ are citizens of a European Economic Area Member State not belonging to the EU,
- ❖ have a temporary residence permit,
- ❖ have a work permit.

A work permit is granted by a voivode (except for a seasonal work permit which is granted on behalf of a staroste, by the director of a Poviats Employment Office) at the request of the entity entrusting performance of work to the foreigner. Currently, the applicable regulations stipulate six types of work permits granted to foreigners. The work permits include, among others, the permits for:

- ❖ foreigners who perform work in the territory of Poland under a contract with an entity whose registered office, place of residence, or branch, establishment, or other type of organized activity is located in the territory of Poland (type A work permit);
- ❖ foreigners who are members of a management board of a legal entity registered in the National Court Register or of a capital company in organization and who stay in the territory of Poland for a period exceeding 6 months in total within 12 consecutive months (type B work permit);
- ❖ workers posted to work in Poland by a foreign entrepreneur (type C, D, and E work permits);
- ❖ workers performing seasonal work in the territory of Poland (in agriculture, gardening, or tourism; type S work permit).

A work permit of a foreign person is valid for a definite time, no longer than 3 years, and for a given foreigner. In the case of members of management boards of companies that employ more than 25 persons, a work permit may be valid up to 5 years. A seasonal work permit may be issued for maximum 9 months.

8. Special Regulations for Citizens of Armenia, Belarus, Georgia, Moldova, Russia and Ukraine

The obligation to hold a work permit does not apply to citizens of the Republic of Armenia, the Republic of Belarus, the Republic of Georgia, the Republic of Moldova, the Russian Federation, and Ukraine if they perform work outside the scope requiring the obligation to obtain a seasonal work permit. Citizens of these countries may perform work for a period no longer than 6 months within 12 consecutive months if:

- ❖ a Poviats Employment Office, at the request of a future employer, prior to the commencement of work by future employees, entered

the employer's declaration on entrusting performance of work to the foreigner with their names given to the records of declarations, and

- ❖ the work is performed on the conditions specified in this declaration.

In January 2022 some changes in rules of employment of foreigners came into force. In particular, work performed on the basis of declarations on entrusting performance of work to the foreigner can be performed for a period of up to 24 months. Moreover, the employer may entrust performance of work on the basis of subsequent declarations and without any breaks.

9. Special Regulations on Assistance to Citizens of Ukraine in connection with Armed Conflict

Pursuant to the regulations dated 12 March 2022, Ukrainian citizens who have left their country as a result of the Russian aggression are, in most cases, able to legally stay in Poland for 18 months starting from 24 February 2022. This applies to persons who arrived in Poland from Ukraine and declared their intention to stay in the territory of our country.

Ukrainian citizens who on 24 February 2022 were legally staying in Poland, e.g. on the basis of visa-free traffic (or Schengen visa), may legally stay in Poland for further 18 months, and their stay in Poland is automatically recognised as legal until 24 August 2023 without a need to take any further actions. National visas of Ukrainian citizens and temporary residence permits which would expire after 24 February 2022 have been extended until the end of 2022.

Foreigners who are not covered by this special regulation and who belong in the category of displaced persons listed in the Executive Decision of the EU Council establishing the existence of a mass influx of displaced persons from Ukraine may benefit from temporary protection in accordance with the Act on granting protection to foreigners within the territory of the Republic of Poland.

The District Labour Office should be notified, within 14 days, of employment of a Ukrainian citizen who legally stays in Poland. This is the only obligation that employers have to fulfil.

10. Special Legal Solutions for Foreigners in connection with COVID-19

Due to the COVID-19 epidemic, some rules of residence and employment of non-EU countries' citizens in Poland have been temporarily modified. In particular, periods of legal residence in Poland were extended for persons staying legally in Poland on the day of the first announcement of the state of epidemic threat (14 March 2020). At the same time, temporary restrictions concerning the entry to Poland were introduced. Also persons entering Poland had to undergo quarantine, with exceptions specified in the regulations.

Due to the above, we recommend that foreigners check in a Polish consulate or seek information from Polish lawyers as to the currently binding rules for the entry to Poland, stay as well as work in Poland before arriving in the country.

RESIDENCE AND EMPLOYMENT OF EU CITIZENS IN POLAND

An EU citizen in the meaning of this chapter is a citizen of a country of the European Economic Zone (all Member States of the European Union, Iceland, Liechtenstein, and Norway) or of Switzerland.

1. Free Movement of Employees and Withdrawal of Permits for Work for EU Citizens in Poland

Freedom of movement of employees within the European Union is one of the fundamental rules of the Community.

EU citizens are released from the obligation to obtain a permit for work in Poland.

2. Right of Residence of Citizens of EU Countries in Poland

EU citizens and members of their families are allowed to cross the border if they hold a valid passport or other document that confirms their identity and citizenship. EU citizens who intend to stay in Poland for a period longer than 3 months have to register their stay. EU citizen's spouse who is not an EU citizen has to obtain a document known as a residence card of a family member of an EU citizen.

An EU citizen has the right to reside in Poland for a period longer than 3 months if he/she meets one of the following conditions of stay in Poland, namely he/she:

- ❖ is an employee or a person working on their own account in the territory of the Republic of Poland;
- ❖ has sufficient financial means to cover the costs of supporting himself or herself and the members of the family in the territory of the Republic of Poland so that he/she does not become a burden to the social welfare system, and holds appropriate health insurance;
- ❖ studies or undergoes vocational training in the Republic of Poland, and also has sufficient financial means to cover the costs of supporting himself or herself and the members of the family in the territory of the Republic of Poland so that he/she does not become a burden to the social welfare system, and holds appropriate health insurance;
- ❖ is the spouse of a Polish citizen.

An EU citizen who enters the territory of Poland in order to look for a job may stay in Poland without the necessity to fulfil the conditions of stay in Poland described above, for a period no longer than 6 months, unless after the lapse of this period they demonstrate that they actively continue looking for a job and have a real chance for employment.

The voivode competent for the place of residence of an EU citizen is responsible for the registration of residence.

3. Right of Permanent Residence

An EU citizen may obtain the right of permanent residence after 5 years of continuous residence within the territory of the Republic of Poland if all the conditions of residence are fulfilled within this period.

However, it is possible to obtain the right of permanent residence before the lapse of 5 years in some circumstances.

An EU citizen who has obtained the right of permanent residence is granted a document certifying the permanent residence right.



EU European Union

Austria (1995)	France (1958)	Malta (2004)
Belgium (1958)	Germany (1958)	Netherlands (1958)
Bulgaria (2007)	Greece (1981)	Poland (2004)
Croatia (2013)	Hungary (2004)	Portugal (1986)
Cyprus (2004)	Ireland (1973)	Romania (2007)
Czech Republic (2004)	Italy (1958)	Slovakia (2004)
Denmark (1973)	Latvia (2004)	Slovenia (2004)
Estonia (2004)	Lithuania (2004)	Spain (1986)
Finland (1995)	Luxembourg (1958)	Sweden (1995)

CONTRACTS

1. Entering into Contracts in Poland

The Polish contract law is, to a substantial extent, adjusted to the EU regulations. Some formalities may be connected with entering into contracts in Poland. For instance, certain transactions have to be made in the form of a notarial deed, e.g. purchasing a real estate, or with signatures certified by a notary, e.g. transfer of shares in a limited liability company.

It is advisable to always verify whether persons who claim to represent an entrepreneur are actually authorised to do so.

2. Obligation to Use Polish Language

The regulations of the law on the Polish language concern protection of the Polish language and its use in public and business activity in Poland.

The law imposes the obligation to use the Polish language in the following situations:

- ❖ relations with the Polish state and local government authorities,
- ❖ relations and contracts in the field of the labour law as well as consumer contracts,
- ❖ if a consumer or employee resides in Poland and a contract is or shall be executed in Poland, with some exceptions where a contract may be in a foreign language.

The obligation to use the Polish language concerns in particular names of goods and services, offers, advertisements, manuals, information on characteristics of goods and services, warranty terms, invoices, bills and receipts, as well as warnings and information for consumers required by virtue of other regulations.

Documents within the scope mentioned above, including, in particular, contracts with the participation of consumers and contracts stipulated by the labour law, should be drawn up in the Polish language. Such documents may additionally be drawn up in a foreign language version or versions. However, the Polish language version should be the basis for their interpretation if the person performing work or the consumer is a citizen of the Republic of Poland.

The documents may be drawn up in a foreign language upon request of a person providing work or a consumer commanding that language if such person is not a Polish citizen and has been previously instructed about the right to have the contract or another document drawn up in the Polish language.

Additionally, non-observance of these regulations of law with respect to relations with consumers as well as in the field of the labour law may result in a fine.



3. Consumer Sale

The consumer sale is the sale of a movable object performed within the scope of activity of an enterprise to the benefit of a natural person who buys this object for the purpose not connected with the professional or business activity.

In case of the consumer sale in Poland, the regulations of the law on the Polish language impose additional obligations on the seller aimed at the protection of consumers' interests. Among others, it broadens the seller's obligations with regard to giving clear, comprehensible and not misleading information in Polish, sufficient for proper and full usage of the purchased goods, providing the proper technical and organizational conditions in the place of sale allowing to make a choice of the good and to check its quality, completeness and functionality of main mechanisms and their basic sub-assemblies.

4. Liability for Product Defects

The Polish law provides for a warranty for defects of an objects of sale. This type of warranty is statutory and is separate from a guarantee in sales given by the seller to the buyer in the event where the object of sale has a physical or legal defect.

The regulations provide for a detailed description of what objects are subject to warranty for defects. A physical defect may be related to the decreased value and usability of the object of sale or its incompleteness and lack of certain qualities. A legal defect is usually related to the lack of the seller's right to dispose of a given item or encumbrance of the item with a third party's right, e.g. a mortgage or a pledge. The seller is released from the liability if the buyer knew about the defect at the moment of purchase.

The liability for defects has a lot to do with the nature of the parties participating in a transaction. Warranty rights differ depending on whether the buyer is a consumer or the transaction is concluded between two equivalent entities, such as entrepreneurs. The procedures are different in terms of the liability periods, as well as the rights and obligations of the parties. If the buyer is a consumer, the liability may be limited or excluded only in particular circumstances. If the buyer is not a consumer, the statutory liability for defects may be contractually extended, limited or excluded. However, the limitation or exclusion will be ineffective if the seller insidiously concealed the defect from the buyer.

The buyer has a range of rights under the warranty for defects: it may request a reduction of the price, removal of the defect (by repair), exchange to a non-defective item, or it may withdraw from the contract but only if the defect is substantial. Furthermore, the buyer may not exercise its right to request a reduction of the price or to withdraw from the contract if the seller has replaced the item with a non-defective one or removed the defect immediately and without excessive inconvenience for the buyer. The freedom to choose the right to be exercised by the buyer under the warranty for defects (exchange or repair) is limited by the regulations of “impossibility or excessive costs”. The reason is that the seller may oppose the fulfilment of the buyer’s request with regard to the right chosen by the buyer if such fulfilment is impossible or would require excessive costs in comparison to an alternative right vested in the buyer.

The seller is liable under warranty for defects if the physical defect is found before the lapse of two years, and if the object of sale is a real estate – before the lapse of five years from the release of the object of sale to the buyer. If the buyer is a consumer and the object of sale is a movable property, the liability of the seller may be limited to no less than one year following the release of the object of sale to the buyer.

A claim for removal of a defect or exchange of the object of sale is subject to a time-limit of one year counting from when the defect was found. If the buyer is a consumer, the limitation period may not end before the deadline for the founding of a defect.

5. Venue and Governing Law

It is very important in the international business to agree on the law that will govern the contract as well as on the court that will be competent in the case of a dispute.

Since 17 December 2009, the EU Member States (except Denmark) have been obliged to apply Regulation (EC) No. 593/2008 of the European Parliament and of the Council instead of the Rome Convention on the law applicable to contractual obligations, so-called Rome I. The Regulation regulates the problem of law applicable in the case of contracts related to the legal systems of different states. As a rule, the contract is subject to the law as chosen by the parties, and in case no law has been chosen, the detailed rules as defined in the Regulation should be referred to and complied with.



APOSTILLE

The Polish law stipulates that foreign public documents have the same probative force as Polish official documents. Thus, there is no formal obligation to have them certified. There are, however, two exceptions to that rule, i.e. documents certifying transfer of ownership right to a real estate located in Poland and documents the authenticity of which was challenged by a counter-party still should be authenticated by Polish diplomatic or consular agents. Nevertheless, in practice, the Polish authorities want to be sure that the presented documents are authentic and have been issued legally. This is what the so-called apostille is for. Not only the original document requires authentication, but also its copies and excerpts.

What is Apostille?

A public document issued in another country must be first certified in order to be used before Polish courts and other authorities.

In the case of documents intended for circulation in states that are parties to the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, the certification is done by an apostille. It can take two forms: of an annotation (e.g. a seal or stamp) affixed directly to the document being certified or of a separate document. Apostille is designed to certify the authenticity of a document according to the law applicable at the place of issuing that document in respect of its form, issuance by the relevant authority, as well as authenticity of the stamp affixed and signatures made on the document. In short, apostille makes it possible for a foreign document to be used legally in a different country.

An up-to-date list of the states which are parties to the Hague Convention of 1961 is available on the HCCH website or at the legalisation centre: <http://www.hcch.net>

Pursuant to the Convention, public documents are understood as: notarial deeds, documents issued by state administration, and court documents, including documents issued by a prosecutor’s office or official certificates affixed to documents signed by persons acting as private individuals (e.g. notarial authentications of signatures).

Apostille is granted upon request of the document holder in the country where the document was issued. Some documents may also require prior authentication by other institutions.

As of 16 February 2019, as a result of the changes introduced by Regulation (EU) 2016/1191, the authorities of the EU Member States cannot require an apostille if submitted documents have been issued in another Member State and are referred to in the Regulation, e.g. documents certifying birth, death, name and last name, marriage, divorce, separation or annulment of marriage, origin of a child, adoption, place of residence, lack of criminal record. It does not mean, however, that EU Member States will not be able to issue, at the citizen’s request, an apostille to a document covered by Regulation 2016/1191.

In the case of documents intended for circulation in a state which is not a party to the Hague Convention, the Polish public documents are certified through another procedure: legalisation.

ANTI-MONEY LAUNDERING AND CFT

Each entrepreneur operating in Poland should, among others, take into consideration the regulations of the Polish Act on Counteracting Money Laundering and Financing of Terrorism (“AML”). The Polish regulations result from the EU law. The AML specifies a range of obligations and requirements to be fulfilled, including the obligation to electronically report information, and then to update the information (e.g. change of address) in the Central Register of Beneficial Owners (“CRBR”). The above-mentioned obligations lie, among others, with management boards of capital companies (e.g. limited liability companies). In principle, proxies may not make reports or updates on behalf of e.g. a management board. Beneficial owners (natural persons) of the entities are in turn obliged to submit to those entities any and all information and documents necessary to report and update the information on beneficial owners.

The deadlines for fulfilling the above-mentioned obligations are very short, and the failure to perform them in a timely manner or the submission of the information inconsistent with the facts may cause, among others, that very high financial penalties (up to PLN 1 million) will be imposed. It is impossible to fulfil the above-mentioned obligations without a proper electronic signature (in practice, it is an e-signature obtained in Poland).



PERSONAL DATA PROTECTION

As in other EU countries, Regulation no. 2016/679 (“GDPR”) is a “constitution” in the scope of the personal data protection in Poland. An entrepreneur who intends to commence business activity in Poland should, however, remember that the GDPR is not the only legal act which pertains to the personal data protection in Poland.

Currently, we encounter the processing of personal data in almost every aspect of life and every business sector. At least several dozens of legal acts in the scope of regulating and specifying issues of personal data

have changed in the last few years. One example may be regulations in the scope of the labour law and introduction to the Polish Labour Code of detailed rules concerning the surveillance of employees (and indirectly of other persons), property protection or entrepreneur’s production control, including video surveillance, e-mail, etc.

Given the above, if you commence business activity in Poland, you should conduct, among others, revision of the hitherto policies / procedures in the scope of personal data and their adjustment to Polish regulations. For this purpose, we recommend that you use professional legal assistance.

The dynamic development of new technologies and changes concerning our lives, caused by i.a. COVID-19, result in the fact that the data protection law is frequently updated. Moreover, each new technology, innovation, change (e.g. employees’ remote work) implemented in an enterprise has a possible impact on the personal data processed by the company and its contractors. At the same time, the maximum penalties under the GDPR are very strict, and the Polish supervisory authority more and more frequently imposes penalties (their amounts are still increasing) not only for breaches concerning the processing of personal data, but also for entrepreneurs’ failures to report the said breaches and to notify persons whose personal data could have been breached.

Therefore, the companies which have already implemented the GDPR procedures should conduct their periodic revision and check-up, among others, with regard to latest changes in law and the risk of a possible breach of rights and freedom of natural persons.

LEGAL PROFESSIONALS

Legal assistance in Poland is provided by attorneys-at-law [*radca prawny*] and advocates [*adwokat*]. An attorney-at-law and an advocate may advise in any field of law and may appear in court in all types of cases.

A notary [*notariusz*] is a third category of legal professionals in Poland. The role of a notary is to protect legal proceedings by assuring the security and certainty of legal transactions. The Polish law provides that certain acts in law have to be carried out in the presence of a notary who draws up a deed and handles all the paperwork required for a given transaction, in particular:

- ❖ real estate transactions,
- ❖ donations,
- ❖ establishing perpetual usufruct rights,
- ❖ preparing and signing deeds of association of companies.

A notary may also make a legal duplicate of a document or draw up the last will.

A bailiff [*komornik*] is authorised to enforce court judgements.

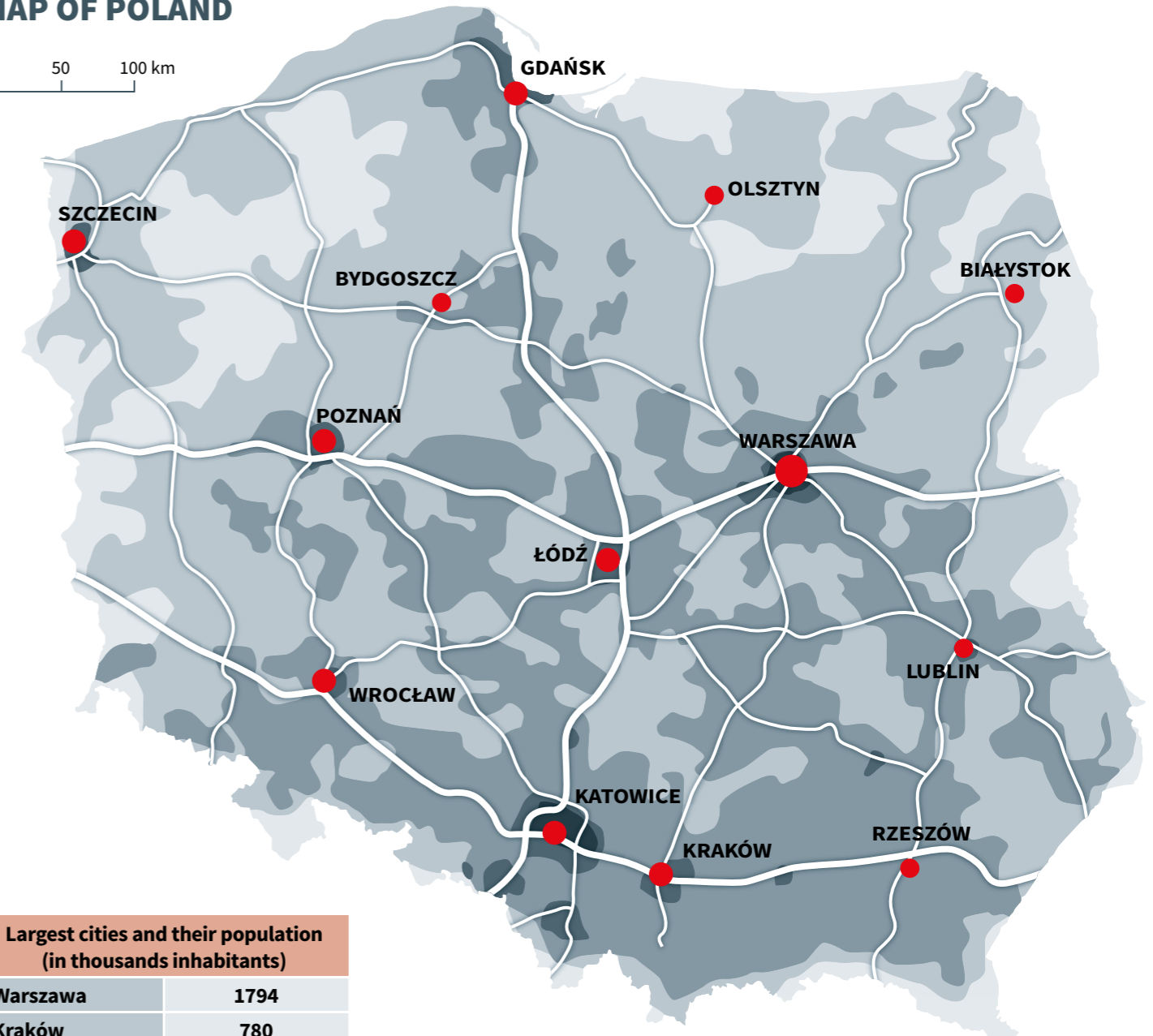
A tax advisor [*doradca podatkowy*] is authorised to advise in the field of tax law only.

It is advisable to check with a local chamber of respective legal practitioners in Poland if a given person is authorised to practice the legal profession.



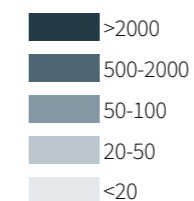
MAP OF POLAND

0 50 100 km



Largest cities and their population (in thousands inhabitants)	
Warszawa	1794
Kraków	780
Łódź	672
Wrocław	642
Poznań	532
Gdańsk	471
Szczecin	398
Bydgoszcz	344
Lublin	339
Białystok	297
Katowice	291

Number of inhabitants per 1 km²



Total population	38.2 million
Land area	312,685 km ²

Source: Central Statistical Agency in Poland (GUS), 2021