

## **Instruction for foreigners**

### **CHAPTER I**

#### **HOW TO FILL IN THE APPLICATION PROPERLY?**

### **CHAPTER II**

#### **GENERAL ISSUES**

- 2.1** LEGAL BASIS
- 2.2** CONDITIONS OF STAY FOR THE FOREIGNERS IN THE REPUBLIC OF POLAND
- 2.3** REQUIREMENTS CONCERNING APPLICATIONS, DOCUMENTS, CLARIFICATIONS AND STATEMENTS
- 2.4** TIME LIMIT FOR HANDLING A CASE
- 2.5** PROXY
- 2.6** SERVING CORRESPONDENCE
- 2.7** DELIVERING CONSIGNMENTS IN CASE OF LIVING ABROAD
- 2.8** REQUIREMENT TO MEET DEADLINES
- 2.9** GETTING ACQUAINTED WITH CASE FILES
- 2.10** STAMP DUTY

### **CHAPTER III**

#### **VISA EXTENSION**

- 3.1** BODY ASSESSING THE APPLICATION
- 3.2** NATIONAL VISA EXTENSION
- 3.3** EXTENSION OF SCHENGEN VISA
- 3.4** APPLICATION SUBMISSION DEADLINE
- 3.5** DECISION
- 3.6** DOCUMENTS

### **CHAPTER IV**

#### **RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME**

- 4.1** CIRCUMSTANCES WHICH MAY FORM THE BASIS FOR THE AWARD OF A RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME
- 4.2** RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME IN CASE OF AN ILLEGAL STAY IN THE TERRITORY OF THE REPUBLIC OF POLAND
- 4.3** ADDITIONAL REQUIREMENTS CONCERNING THE APPLICATION
- 4.4** BODY ASSESSING THE APPLICATION
- 4.5** DOCUMENTS
- 4.6** FAMILY MEMBER
- 4.7** PERIOD FOR WHICH A RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME IS GRANTED
- 4.8** APPLICATIONS LEFT WITH NO FURTHER ACTION TAKEN
- 4.9** REFUSAL TO AWARD A RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME
- 4.10** CANCELLATION OF RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME
- 4.11** APPLYING FOR THE RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME IN CASE OF LIVING ABROAD

### **CHAPTER V**

## **SETTLEMENT PERMIT**

- 5.1** BODY ISSUING THE DECISION
- 5.2** UNINTERRUPTED STAY REQUIREMENT – JUSTIFIED BREAKS IN STAY
- 5.3** DOCUMENTS
- 5.4** ADDITIONAL REQUIREMENTS CONCERNING THE APPLICATION
- 5.5** APPLICATIONS LEFT WITH NO FURTHER ACTION TAKEN
- 5.6** REFUSAL TO AWARD A SETTLEMENT PERMIT
- 5.7** REVOKING OF A SETTLEMENT PERMIT
- 5.8** PERIOD FOR WHICH A SETTLEMENT PERMIT IS ISSUED

## **CHAPTER VI**

### **RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT**

- 6.1** BODY ISSUING THE DECISION
- 6.2** DOCUMENTS
- 6.3** ADDITIONAL REQUIREMENTS CONCERNING THE APPLICATION
- 6.4** APPLICATIONS LEFT WITH NO FURTHER ACTION TAKEN
- 6.5** PERSONS WHO MAY NOT OBTAIN A RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT
- 6.6** CONDITION OF A 5-YEAR LEGAL AND CONTINUOUS RESIDENCE
- 6.7** UNINTERRUPTED STAY REQUIREMENT – JUSTIFIED BREAKS IN STAY
- 6.8** REFUSAL TO AWARD A RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT
- 6.9** REVOKING A RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT
- 6.10** RE-OBTAINING A RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT
- 6.11** THE PERIOD FOR WHICH A RESIDENCE PERMIT FOR EC RESIDENT IS GRANTED

## **CHAPTER VII**

### **RESIDENCE CARD**

- 7.1** BASIC INFORMATION
- 7.2** REPLACEMENT OF THE RESIDENCE CARD
- 7.3** BODY REPLACING THE RESIDENCE CARD
- 7.4** LOSS OF RESIDENCE CARD
- 7.5** TRAVELLING ON THE BASIS OF THE RESIDENCE CARD

## **CHAPTER VIII**

### **APPEAL PROCEDURE**

- 8.1** FAILURE TO MEET THE DEADLINE
- 8.2** GETTING ACQUAINTED WITH CASE FILES
- 8.3** METHODS OF SUBMITTING APPLICATIONS, DOCUMENTS, CLARIFICATIONS AND STATEMENTS
- 8.4** COMPLAINT

## CHAPTER I

### HOW TO FILL IN THE APPLICATION PROPERLY?

When filling in the application for a residence permit remember to:

- **fill it legibly in Polish;**
- **fill in all required sections of the application** in accordance with the facts;
- fill it in block letters entered in the relevant boxes;
- if you gave **other personal data** in the past, inform about this fact in the justification;
- **indicate the factual place of residence** where the correspondence will be received;
- in the part concerning criminal history, **indicate information about all convictions and pending criminal proceedings or proceedings in misdemeanour cases;**
- in case of uncertainty as to the convictions, indicate that the proceedings remain pending (**NOTE: payment of fines** does not prove the fact that no criminal proceedings were initiated and no sentence was issued in the case);
- attach **the proof of payment of stamp duty** to the application;
- attach to the application **photographs taken in the appropriate format;**
- **sign it** in person and enter the **name and surname using the Latin alphabet;**
- in the case of applying for a residence permit for a fixed period in order to reunite with the family (**Article 53(1) point 7** of the Act on Foreigners) the application should be **signed by the foreigner residing on the territory of the Republic of Poland;** in order to award a permit to a minor, the consent of all persons having parental custody over that minor is required;
- present a **valid travel document**. In particularly justified cases, when a foreigner **does not have** a valid travel document and **it is not possible to obtain it, one can present another proof of identification;**
- attach any document which may confirm the information contained in the application and contribute to the swift handling of the case;
- if in doubt, **ask a voivodeship office worker for assistance.**

## CHAPTER II

### GENERAL ISSUES

#### 2.1 LEGAL BASIS

- Act on Foreigners of 13 June 2003 (Dz.U. of 2006 No. 234, item 1694, as amended).
- Act of 14 June 1960 – the Code of Administrative Procedure (Dz.U. of 2000 No. 98, item 1071, as amended).
- Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243 of 15.09.2008, p. 1).

#### 2.2 CONDITIONS OF STAY FOR THE FOREIGNERS IN THE REPUBLIC OF POLAND

**A foreigner may stay on the territory of the Republic of Poland if they have:**

- 1) a valid travel document;
- 2) a valid visa or other valid document entitling them to enter and stay in that territory, if required;
- 3) permission to enter another country or a residence permit in another country, if such permits are required for transit.

A foreigner is allowed to travel and stay within the territory of the Schengen states (including the territory of the Republic of Poland) without the necessity of having a visa during a period no longer than 3 months within a 6-month period on the basis of a national visa or a residence permit issued by one of the Schengen states, a residence card in the case of Poland, if they meet the general conditions of entry and residence in the territory of the Schengen states, i.e.

- they have a valid travel document,
- they can justify the purpose and conditions of the stay, and
- they have sufficient resources to support themselves and the ability to receive them legally, and also
- they are not considered to pose a threat to public order, internal security, public health or international relations of any of the Member States and, in particular, on this basis no registration in the national databases of Member States was made against them for purposes of refusing entry.

**The Schengen states include:** Austria, Belgium, Denmark, Finland, France, Greece, Spain, Luxembourg, Netherlands, Germany, Portugal, Sweden, Italy, Estonia, Lithuania, Latvia, Malta, Poland, Czech Republic, Slovakia, Slovenia, Hungary, as well as Switzerland, Norway and Iceland (last three countries are Schengen states not belonging to the EU).

**Please, note that the United Kingdom, Ireland, Cyprus, Bulgaria and Romania are non-Schengen EU Member States.**

#### 2.3. REQUIREMENTS CONCERNING APPLICATIONS, DOCUMENTS, CLARIFICATIONS AND STATEMENTS

Applications, requests and documents on matters concerning the legalisation of foreigners' stay on the territory of the Republic of Poland should be:

- **drawn up in Polish;**
- **originals or officially certified true copies;**
- instead of the original document, a party can submit a copy of the document if its compliance with the original was certified by a notary or by the party's proxy who acts as a defence counsel, solicitor, patent attorney or tax advisor – **not applicable to identification (travel) documents;**
- **translated into Polish by a sworn translator – in the case of documents drafted in a foreign language,** serving as evidence in proceedings (not applicable to the travel document).

#### **2.4. TIME LIMIT FOR HANDLING A CASE**

**In accordance with applicable law, the settlement:**

- **of a case requiring investigation** should take no longer than one month,
- **of a case that is particularly complicated** should take no longer than two months from the date of starting the proceedings,
- **and in appeal proceedings** – within one month from the date of receipt of the appeal.

**Handling a matter concerning the granting of a settlement permit or residence permit for EC long-term resident** should be completed no later than within **3 months** following the initiation of the proceedings,

- **and in appeal proceedings** - within two months following the receipt of the appeal.

Before a decision to grant a residence permit for a fixed period of time / settlement permit / residence permit for EC long-term resident is made, **the competent voivode is obliged to send a request to the division commander of the Border Guard, the Voivodeship Police Commander, Chief of the Internal Security Agency,** and if necessary also to other authorities, **concerning the information whether foreigner's entry and stay on the territory of the Republic of Poland are a threat to national defence or national security or to the protection of public safety and order.**

Bearing in mind that the above-mentioned authorities are obliged to forward the requested information within 30 days, it should be expected that **the proceedings in the case will last more than 30 days.**

**Each case not handled in the above period is notified by the authority of the first and second instance to the interested party, giving reasons for the delay and indicating the new deadline.**

#### **2.5 PROXY**

**A party may act via a proxy, unless the nature of the action requires their personal involvement. A natural person having legal capacity may be the party's proxy.**

- the power of attorney should be **granted in writing or entered into the minutes;**
- a proxy attaches **the original or officially certified true copy of the power of attorney** to the file;

- along with the power of attorney, **a receipt of stamp duty paid in the amount of PLN 17** should be attached to the case files;
- **the granted power of attorney should assure authorisation to represent a foreigner in the given proceedings both before the competent voivode and the Head of the Office of Foreigners.**

## 2.6 SERVING CORRESPONDENCE

All letters (notifications, calls, decisions, provisions, etc.) are delivered upon receipt by **mail**, or by the officials of the authority of first or second instance.

**Letters are delivered to the address indicated by the party or to any place where they can be found.** Letters can also be delivered to the workplace of a person authorised by the employer to receive correspondence.

## CHANGE OF ADDRESS

In the course of proceedings, the parties and their representatives and proxies are **obliged to inform the public administration body about any changes in their address.** During the proceedings, letters are always sent to the last address for delivery indicated to the authorities.

- **In case of negligence of the above-mentioned obligation, the submission of letters to the previous address is considered effective.**
- **ADDRESSEE'S ABSENCE:** In the absence of the addressee, a letter is delivered against receipt, to an adult member of the household, a neighbour, or caretaker, if they undertake to give the letter to the addressee. The delivery of a letter to a neighbour or caretaker shall be notified to the recipient by placing a notice in a mailbox or if it is not possible, at the door of the apartment.

## LETTERS ARE DELIVERED:

- **To the party.** Letters are delivered to the party, to the **address** they indicated, and when this party acts through a representative, they are delivered to the representative.
  - **The party shall confirm the receipt of the letter by a signature** indicating the date of delivery. If the interested party avoids the confirmation of delivery, the delivering person himself confirms the date of delivery and indicates the person who received the letter and the reason for the lack of signature.
  - **If the interested party refuses to accept the letter** sent by mail or otherwise, the letter will be returned to the sender with a note of the refusal and the date thereof. In this case, it is considered that the letter was delivered on the day of refusal to accept it by the addressee.
- **To the proxy.** If a party has appointed a proxy, letters should be delivered to the proxy. Should **several proxies** be assigned, the party appoints one of them as the proxy competent for correspondence and notifies the body conducting the proceedings of the fact. **If the foreigner has not appointed a proxy,** letters are delivered to one proxy only.

## IN THE EVENT OF FAILURE OF DELIVERY OF A LETTER IN A MANNER INDICATED ABOVE:

- post office keeps the letter for 14 days – if the letter is delivered by post,

- letter is placed for 14 days at the office of relevant gmina (city) - in the case of delivering the letter by an employee of a gmina office (city) or an authorised person or body.

Notice of leaving a letter with information about the possibility of receiving it within 7 days from the date of leaving the notice is to be placed in a mailbox or when it is not possible, on the door of the recipient's apartment, their office or other premises where the addressee performs their professional activities, or in a visible place at the entrance to the property of the recipient.

In case of not receiving the above-mentioned letter within this period, another notification is sent informing about the possibility to receive the letter **within the period no longer than 14 days from the date of first notification.**

**Delivery shall be deemed effective at the end of the last day of that period, and the letter will be kept in case files.**

## **2.7 DELIVERING CONSIGNMENTS IN CASE OF LIVING ABROAD**

- In case of **going abroad**, the interested party has a duty to appoint a **proxy for matters concerning correspondence delivery in the country and to notify this to the authority** conducting the proceedings. In the event of failure to comply with this obligation, the letter shall be deemed delivered at the previous address.
- **If a party domiciled abroad** or seated abroad has not authorised a proxy domiciled in Poland to conduct the case, such party is obliged to indicate a proxy for deliveries in Poland. In case of **failure to appoint a proxy for correspondence delivery in Poland**, all letters to the party will be kept in case files and they are considered delivered.

## **2.8 REQUIREMENT TO MEET DEADLINES**

**Applications and requests drawn up in Polish should be lodged within deadlines relevant for a given action.**

**A deadline for a given action is considered met, provided that prior to its expiration the letter was:**

- sent in the form of a digital document within the meaning of the provisions of the Act of 17 February 2005 on computerisation of the activity of entities performing public tasks, against acknowledgement of submission, with a public administration body,
- dispatched at a public operator of the **Polish post office**,
- submitted at a **Polish consular post**,
- submitted by a soldier at the headquarters of a military unit,
- submitted by a marine ship crew member to the ship captain,
- submitted by a detained person to the administration of a penal institution.

**The letters may also be submitted directly to the authority hearing the case.**

**Moreover, the date of a particular activity shall be:**

- in the case of delivery by a **foreign postal service** - the date of receipt at the Polish postal facility (post stamp date of the Polish postal service);

- for delivery *via courier* (item posted both in Poland and abroad) – the date of receipt by the competent body.

**In case of failure to meet the deadline to supplement procedural deficiencies, within seven days** following expiration of causes of the failure to meet the deadline, a foreigner may file a request to restore the deadline. **The foreigner should be able to substantiate that the failure to meet the deadline occurred without their fault. Formal deficiencies should be corrected along with the request.**

## 2.9 GETTING ACQUAINTED WITH CASE FILES

- **At each proceedings stage, the party is allowed to have access to case files, make notes, copies or extracts on the basis thereof. They are also entitled to this after the end of the proceedings.**
- The party may request to authenticate extracts or copies of the case files, or to be given certified copies of the case files if it is **justified by the party's important interests.**
- **Stamp duty for the certificate of conformity for an extract or copy of a document requested from case files** for each full or partially filled page **amounts to PLN 5.**
- **Active participation in the proceedings.** Public administration bodies are obliged to enable active participation at each stage of proceedings for the parties, and prior to the issue of a decision to make it possible for them to express their opinion on the collected evidence, materials and lodged claims.
- The party may **familiarise themselves** with the case evidence, supplement the data in the application submitted and make a formally recorded declaration.

## 2.10 STAMP DUTY

**The obligation to pay stamp duty for individual forms of legalising a stay emerges once an application is submitted to the voivode.** Stamp duty is payable on account of the competent tax authority, i.e. **the vojt (mayor, president of a city).** The person lodging an application or any other form is required to attach proof of payment of stamp duty due.

**Stamp duty covers, for example, the following:**

- granting residence permit for a fixed period of time – PLN 340
- award of settlement permit – PLN 640,
- award of residence permit for EC long-term resident – PLN 640,
- national visa extension – PLN 406,
- optional extension of the Schengen visa – EUR 30,
- decision other than the ones mentioned above to which the provisions of the Code of Administrative Procedure apply – PLN 10,
- issue of a certificate – PLN 17,
- submission of a document confirming that power of attorney was granted or an extract, excerpt or copy thereof – PLN 17.

**If an application for a residence permit for a fixed period of time / settlement permit covers children or other dependants of the foreigner, the aforementioned fee should be paid for each of those persons.**

**If the party does not pay the fee along with submitting the application, the authority conducting the proceedings shall fix a deadline to pay the fee. This deadline may not be**

**less than 7 days and more than 14 days. If within the prescribed period the fee is not paid, the application is returned.** A detailed list of items covered by stamp duty, fee rates and exemptions from it can be found in the **Annex to the Act of 16 November 2006 on stamp duty (Dz.U. No. 225, item 1635, as amended).**

#### **RETURN OF STAMP DUTY**

**Stamp duty is returned upon request by the party when no official action was taken, a certificate or permit was not issued, although the stamp duty was paid.** Stamp duty is not refundable after **five years** from the end of the year in which the payment was made. In accordance with Article 12(1) of the above-mentioned Act, the tax authority competent in matters of stamp duty is **the voit (mayor, president of the city).**

## CHAPTER III

### VISA EXTENSION

#### 3.1 AUTHORITY ASSESSING THE APPLICATION

Applications for **extension of a Schengen visa or the national visa** are submitted to **the voivode competent for the place of residence of the foreigner**.

#### 3.2 NATIONAL VISA EXTENSION

A foreigner residing on the territory of the Republic of Poland **can extend** the validity of the national visa or the stay covered by this visa, if **all** of the following conditions are met:

- 1) it is supported by a **vital personal or professional interest of the foreigner**, or **humanitarian considerations**, preventing them from leaving the territory before the expiry of the national visa or before the end of the authorised period of stay;
- 2) events that are the cause of applying for a national visa extension, occurred **independently of the will of the foreigner** and were not foreseeable at the date of applying for a national visa;
- 3) circumstances indicate that the **purpose of stay** of the foreigner on the territory of the Republic of Poland will be **different than the declared one**;
- 4) **there are no circumstances by reason of which a national visa is denied to the foreigner**.

#### Stay in a hospital

A foreigner staying in a hospital, whose health status precludes the possibility of leaving the territory of the Republic of Poland, is given an extension of the validity of a national visa or the stay covered by the visa to the date on which their health will allow them to leave this territory.

### PERIOD OF STAY

National visa **may be extended once**. The **period of stay** on the territory of the Republic of Poland on the basis of the extended visa **shall not exceed** the maximum period of stay provided for the national visa, **i.e. 1 year**.

**NOTE: Visa validity period does not always correspond to the period of stay to which the visa entitles.**

#### 3.3. EXTENSION OF SCHENGEN VISA

A foreigner residing on the territory of the Republic of Poland **can** extend the validity of the national visa or the stay covered by this visa, if all of the following conditions are met:

- they prove that **due to force majeure or for humanitarian reasons** it is not possible for them to leave the territory of Member States before the expiry of visa or the authorised period of stay.
  - **The above visa extension is free.**
- they submit a proof of **material personal reasons** justifying the extension of the visa validity period or of the authorised of stay.
  - **A fee of EUR 30 is collected for the above-mentioned extension.**

## PERIOD OF STAY

The **period of stay** on the territory of the Republic of Poland on the basis of the extended visa shall not exceed the maximum period of stay provided for the Schengen visa, **i.e. 3 months**.

**NOTE: Visa validity period does not always correspond to the period of stay to which the visa entitles.**

## 3.4 APPLICATION SUBMISSION DEADLINE

A foreigner intending **to extend their stay on the basis of:**

- **a Schengen visa,**
- **a national visa,**

is obliged to submit an application for visa extension to the voivode competent for their place of residence **at least 3 days before the lapse of the fixed period indicated in the granted visa.**

In cases where the foreigner has shown that **due to force majeure or for humanitarian reasons** it is not possible for them to leave the territory of the Member States before the expiry of a visa or before the end of the authorised period of stay, or if the foreigner stays **in a hospital**, the application may be submitted **on the last day of the period of stay indicated in the granted national visa or Schengen visa.**

An application submitted after the deadline **shall not be examined.**

A foreigner who applied for an extension of visa within the above-mentioned deadline is given **a stamp** in a travel document by a voivode, which confirms the submission of the application. If the deadline for submission of the application was observed and the application does not contain any formal defects or defects were completed on time, **the stay of a foreigner on the territory of the Republic of Poland is considered legal** from the date of submitting the application until a final decision on the extension of the Schengen visa or the national visa is made.

If Schengen or national visa extension **proceedings** are **suspended at the request of the foreigner**, their **stay** at that time **will not be considered legal.**

**NOTE:**

**Putting a stamp on the travel document does not entitle the foreigner to travel within the territory of other Schengen states, while the foreigner may leave for their country of origin.**

## 3.5 DECISION

Settlement regarding the extension of the Schengen visa or the national visa is made by means of a decision. An extended Schengen or national visa is marked in the travel document in the form of a sticker.

## 3.6 DOCUMENTS

A foreigner **applying for a Schengen or national visa extension** is obliged to produce a valid **travel document**, justify their **application** and append the following to it:

1. **an up-to-date photograph** – not damaged, coloured, measuring 35 x 45 mm, taken within previous 6 months with a standardised, fair background, with good focus, clearly presenting the eyes and face from the top of the head to the upper part of shoulders, so that the face occupies 70-80% of the picture; the picture should present the person with no headdress and no dark eyeglasses looking ahead with open eyes not covered by hair, with a natural face expression and closed lips;
2. **documents confirming:**
  - **purpose of the stay** and the need to extend a Schengen visa or a national visa,
  - **health insurance** within the meaning of the provisions on health care services financed from public funds or a travel medical insurance with a minimum amount of insurance of EUR 30,000, valid for a period of intended stay of the foreigner on the territory of the Republic of Poland, covering any expenses that may arise during their stay at this territory in connection with the need to return for medical reasons, the need of urgent medical attention, emergency hospital treatment or in the event of death, in which the insurer undertakes to cover the cost of health services provided to the insured directly to the entity providing such services on the basis of the bill issued by that entity – in case of the extension of a national visa,
  - **travel medical insurance** with a minimum amount of insurance of EUR 30,000 – **in case of the extension of a Schengen visa**,
  - other circumstances named in the application.

<b>REQUIREMENTS FOR THE TRAVEL DOCUMENT:</b>
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**A foreigner applying for extension of the Schengen visa or the national visa provides for inspection a travel document which meets the following criteria:**

- 1) **validity** of the travel document expires no earlier than **3 months** before the expiry of the requested visa;
- 2) contains at least **two blank pages**;
- 3) was issued **in the last 10 years**.

## CHAPTER IV

### RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME

A residence permit for a fixed period of time may be applied for if the circumstances justify the residence on the territory of the Republic of Poland **for a period longer than 3 months**.

#### 4.1. CIRCUMSTANCES WHICH MAY FORM THE BASIS FOR THE AWARD OF A RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME

##### 1. WORK PERFORMANCE

in case of a foreigner holding a **work permit or a written statement of the employer** of their intention to entrust a foreigner with the performance of work, if a work permit is not required,

##### 2. PURSUANCE OF BUSINESS ACTIVITY

basing on the provisions applicable within this scope in the Republic of Poland conducting business activity, which is beneficial to the national economy, and, in particular, which contributes to the growth in investments, technology transfer, introduction of beneficial innovations or creating new jobs,

##### 3. ACKNOWLEDGED ARTISTIC ACHIEVEMENTS

if a person having acknowledged **artistic achievements** intends to continue working on the territory of the Republic of Poland,

##### 4. PROFESSIONAL TRAININGS AND INTERNSHIPS

implemented under the European Union programmes,

##### 5. BEING A FAMILY MEMBER

in case of an intention to live together with a migrant worker referred to in the European Social Charter signed in Turin at 18 October 1961 (OJ of 1999 No. 8, item 67),

##### 6. MARRIAGE WITH A POLISH CITIZEN

##### 7. REUNION WITH FAMILY

when a foreigner resides on the territory of the Republic of Poland or resides on that territory to be reunited with family,

##### 8. BEING A MINOR CHILD OF A FOREIGNER BORN ON THE TERRITORY OF THE REPUBLIC OF POLAND

when a minor foreigner resides on the territory unaccompanied,

##### 9. BEING A SPOUSE OR AN ADULT CHILD OF A FOREIGNER

when a foreigner stayed on territory of the Republic of Poland for at least 5 years under residence permits for a fixed period of time granted in connection with the circumstances referred in point 7 (reunion with family),

**10. WIDOWHOOD, DIVORCE, SEPARATION OR DEATH OF AN ASCENDANT OR DESCENDANT OF THE FIRST DEGREE FAMILY MEMBER**

in case of a foreigner staying on the territory of the Republic of Poland on the basis of a residence permit for a fixed period of time granted in connection with the circumstances referred to in point 7 (reunion with family), **when it is supported by a particularly important interest of the foreigner,**

**11. WIDOWHOOD OR DIVORCE**

in case of a foreigner staying on the territory of the Republic of Poland on the basis of a residence permit for a fixed period of time granted in connection with the circumstances referred to in point 6 (marriage with a Polish citizen), **when it is supported by a particularly important interest of the foreigner,**

**12. BEING A MINOR CHILD OF A FOREIGNER BORN ON THE TERRITORY OF THE REPUBLIC OF POLAND**

when the minor foreigner is a child of a foreigner holding a residence permit for a fixed period of time born on the territory of the Republic of Poland,

**13. HOLDING A RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT GRANTED BY ANOTHER EUROPEAN UNION MEMBER STATE**

in case of a foreigner intending to work or conduct business activity under the provisions of laws in force in this field in the Republic of Poland, take up or continue studies or professional training or if a foreigner demonstrates that there are other circumstances that justify their residence on the territory of the Republic of Poland,

**14. BEING A FAMILY MEMBER OF A FOREIGNER REFERRED TO IN POINT 13**

in case of a foreigner, who is a family member of a foreigner referred to in point 13, with whom they stayed in the territory of another European Union Member State, accompanied them or seek to reunite with them,

**15. BEING A VICTIM OF TRAFFICKING IN HUMAN BEINGS**

in case of a foreigner, who is a victim of trafficking in human beings within the meaning of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings and satisfies the following conditions:

1. they reside within the territory of the Republic of Poland,
2. they commenced co-operation with the authority competent to conduct proceedings on combating trafficking in human beings,
3. they severed contacts with persons suspected of committing criminal offenses related to trafficking in human beings,

**16. TAKING UP OR CONTINUING FULL-TIME STUDIES OR FULL-TIME DOCTORAL STUDIES**

in case of a foreigner, who arrives to or resides within the territory of the Republic of Poland in order to take up or continue full-time studies or full-time doctoral studies in that territory, hereinafter referred to as "studies", including when they took up studies in another European Union Member State which they intend to continue or supplement in the territory of the Republic of Poland,

#### **17. CONDUCTING SCIENTIFIC RESEARCH**

when a foreigner is a scientist who arrives or resides in the territory of the Republic of Poland in order to carry out scientific research under a contract of admittance for research project implementation, concluded with scientific institution approved by the minister competent for science,

#### **18. HOLDING A RESIDENCE PERMIT BEARING THE TERM "RESEARCHER"**

when a foreigner **holds a residence permit** referred to in Article 1(2)(a) of the Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.06.2002, pp. 1-7) **bearing the term "researcher"** issued by another European Union Member State, if the contract of admittance for a research project implementation concluded with a competent scientific institution of that State, provides for the research also on the territory of the Republic of Poland,

#### **19. CITIZENS OF THE REPUBLIC OF TURKEY**

**in case of a citizen of the Republic of Turkey, who has the right to work in the territory of the Republic of Poland** under the terms defined in legal acts issued by authorities designated under the Agreement establishing an Association between the European Economic Community and **Turkey**, signed in Ankara on 12 September 1963 (OJ L 217 of 29.12.1964, p. 3687).

Moreover, the circumstances given which **it is possible to grant to a foreigner** a residence permit for a fixed period of time cover:

#### **20. STUDYING**

#### **21. VOCATIONAL TRAINING**

#### **22. FAMILY BONDS**

in case of a foreigner, who intends to join a Polish citizen or national of the European Union Member State, Member State of the European Free Trade Association (EFTA) - party to the agreement on the European Economic Area or the Swiss Confederation, residing on the territory of the Republic of Poland, or intends to stay with them;

#### **23. BEING MEMBERS OF CLERGY, RELIGIOUS ORDERS OR PERSONS PERFORMING A RELIGIOUS FUNCTION IN CHURCHES AND RELIGIOUS ASSOCIATIONS**

in case of a foreigner, who is a cleric, a member of religious order or a person performing a religious function in churches and religious associations, whose status is

regulated by international agreement, the provisions of acts on relations between the state and the church or other religious association or who operates on the basis of an entry to the register of churches and other religious associations, and whose residence on the territory of the Republic of Poland is related to the performed function, or preparation for its performance;

#### **24. OTHER CIRCUMSTANCES**

in case of a foreigner who demonstrates that there occur other circumstances justifying stay in the territory of the Republic of Poland.

#### **4.2 RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME IN CASE OF AN ILLEGAL STAY IN THE TERRITORY OF THE REPUBLIC OF POLAND**

**Residence permits for a fixed period of time can be granted to a foreigner who resides on the territory of the Republic of Poland illegally, if:**

1. Polish law requires from **the foreigner a personal appearance before Polish public authority**;
2. **unique personal situation** requires the foreigner to appear in person on the territory of the Republic of Poland;
3. it is required by **the interest of the Republic of Poland**;
4. the authority competent for conduct of proceedings on combating trafficking in human beings states that the **foreigner is probably a victim of trafficking in human beings** within the meaning of the Council Framework Decision of 19 July 2002 on combating trafficking in human beings (OJ L 203 of 01.08.2002, p. 1; Special edition in Polish, Chapter 19, volume 6, p. 52).

#### **4.3 ADDITIONAL REQUIREMENTS CONCERNING THE APPLICATION**

The foreigner is obliged to submit an application for granting a residence permit for a fixed period of time to the voivode competent for their place of residence **at least 45 days before the end of the stay period** indicated in their visa or before the expiry of the earlier residence permit for a fixed period of time. **The 45-day deadline shall not be restored.**

If the deadline for submission of the application was observed and the application does not contain any formal defects or they were completed on time, the voivode shall put a **stamp imprint** in the foreigner's travel document, which confirms submission of the application. **A foreigner's stay in this period is considered legal until a final decision in the matter is issued.**

If **proceedings** on granting a residence permit for a fixed period of time **are suspended at the request of the foreigner**, their stay at that time **shall not be considered legal.**

#### **NOTE:**

**Putting a stamp in the travel document does not entitle the foreigner to travel within the territory of other Schengen states, while the foreigner may leave for their country of origin.**

Where **the application was submitted earlier than 45 days** before the expiry of the stay period based on a visa or the period for which the previous residence permit for a fixed

period of time was granted, and the procedure was not completed before the expiry of the held residence permit, **the foreigner must leave the territory of the Republic of Poland** before the expiry of the residence period indicated in the visa or based on a residence permit for a fixed period of time. In case of failure to comply with the obligation to leave the territory of the Republic of Poland and illegal stay on the territory of the Republic of Poland, the voivode is obliged to issue a decision to refuse granting of a residence permit for a fixed period of time.

A foreigner is obliged to **leave the territory of the Republic of Poland** before the expiry of residence permit for a fixed period of time, unless they obtained another residence permit for a fixed period of time or settlement permit or a residence permit for EC long-term resident in the territory of the Republic of Poland.

The stay on the territory of the Republic of Poland without the required visa, residence permit for a fixed period of time or a settlement permit or a residence permit for EC long-term resident, and taking up work or undertaking business activity in violation of the applicable provisions puts the foreigner at risk of issuing a decision **obliging the foreigner to leave the territory of the Republic of Poland** or a decision on **expulsion from the territory of the Republic of Poland** and lack of possibility of re-entering the Polish territory for a period from 1 year to 5 years. Data of a foreigner against whom the decision on expulsion from the territory of the Republic of Poland was taken shall be also transmitted to the Schengen Information System (SIS) for the purpose of refusing entry to the entire territory of the Schengen states in the above-mentioned period of time.

#### 4.4 AUTHORITY ASSESSING THE APPLICATION

An application for a residence permit for a fixed period shall be submitted to the **voivode competent for the foreigner's place of residence**, and in case of a foreigner staying abroad it shall be submitted - **through the consul, to the voivode competent for the foreigner's intended place of residence**.

#### 4.5 DOCUMENTS

A foreigner is obliged to:

- present a **valid travel document**, In particularly justified cases, when a foreigner does not have a valid travel document and it is not possible to obtain it, they can present **another document confirming their identity**.
- submit a **completed application form** and attach the following to the application:
  - **4 up-to-date photographs** – not damaged, coloured, measuring 35 x 45 mm, taken within previous 6 months with a standardised, fair background, with good focus, clearly presenting the eyes and face from the top of the head to the upper part of shoulders, so that face occupies 70-80% of the photo; the photos should present a person with no headdress and no dark eyeglasses looking ahead with open eyes not covered by hair, with a natural face expression and closed lips;
  - **documents necessary to confirm the details contained in the application** and the circumstances justifying the application for a residence permit for a fixed period of time;
  - **proof of stamp duty payment;**

- **documents to confirm health insurance** within the meaning of regulations on state funded healthcare services or a confirmation that the insurer will cover the cost of any treatment in the territory of the Republic of Poland. The aforementioned documents shall be annexed in case of applying for the residence permit for a fixed period of time having regard to:
  - work performance (point 1); pursuance of business activity (point 2); reunion with family (point 7); holding a residence permit for EC long-term resident granted by another European Union Member State (point 13); taking up or continuing full-time studies or full-time doctoral studies (point 16); education (point 20); vocational training (point 21); family bonds (point 22); other circumstances (point 24); **and**
  - in case of: a spouse or an adult child of a foreigner referred to in Article 54 (point 9); a family member of a foreigner referred to in point 13 (point 14); researchers (point 17); foreigners holding a residence permit bearing the term "researcher" (point 18); members of clergy, religious orders or persons performing a religious function in churches and religious associations (point 23).
- **documents to confirm a stable and regular source of income** which must be enough to cover the cost of living for themselves and their dependent family members. The aforementioned documents shall be annexed in case of applying for the residence permit for a fixed period of time having regard to:
  - work performance (point 1); pursuance of business activity (point 2); reunion with family (point 7); holding a residence permit for EC long-term resident granted by another European Union Member State (point 13); vocational training (point 21); family bonds (point 22); other circumstances (point 24); **and**
  - in case of: a spouse or an adult child of a foreigner referred to in Article 54 (point 9); a family member of a foreigner referred to in point 13 (point 14).
- **evidence of sufficient funds to cover the costs of living and returning to their country of origin.** The aforementioned documents shall be annexed in case of applying for the residence permit for a fixed period of time having regard to:
  - taking up or continuing full-time studies (point 16);
  - education (point 20), **and**
  - in case of: researchers (point 17); foreigners holding a residence permit bearing the term "researcher" (point 18).
- **legal title to live in the dwelling** in which a foreigner resides or intends to reside. **A legal title to live in the dwelling in which a foreigner resides or intends to reside shall not be a contract of lending a dwelling for use, unless their descendant, ascendant, spouse, parents of the spouse or foreigner's siblings is the party lending for use.**

**The legal title** shall be annexed in case of applying for the residence permit for a fixed period of time having regard to:

  - work performance (point 1); pursuance of business activity (point 2); reunion with family (point 7); holding a residence permit for EC long-term resident granted by another European Union Member State (point 13); education (point 20); vocational training (point 21); family bonds (point 22); other circumstances (point 24); **and**

- in case of: a spouse or an adult child of a foreigner referred to in Article 54 (point 9); a family member of a foreigner referred to in point 13 (point 14).

#### **EXCEPTION**

**The requirement to present the documents confirming that a foreigner: holds a legal title, has stable and regular source of income and health insurance shall not apply**, for instance: to the spouses of Polish citizens, minor child of a foreigner with a residence permit for a fixed period of time born on the territory of the Republic of Poland, foreigners involved in vocational training and internships implemented under the European Union programmes and to victims of trafficking in human beings.

#### **4.6 FAMILY MEMBER**

The **family member of the foreigner** shall be:

- 1) a person **married** to a foreigner under the law of the Republic of Poland;
- 2) **minor child** of the foreigner and a person married thereto under the law of the Republic of Poland, including an adopted child;
- 3) **minor child** of a foreigner, including an adopted child, dependent on the foreigner and over which the foreigner exercises factual parental custody;
- 4) **minor child** of a person referred to in point 1, including an adopted child, dependent on this person and over which the person exercises factual parental custody;
- 5) a family member of a **minor foreigner holding a refugee status**, residing in the territory of the Republic of Poland unattended, is also considered a direct ascendant.

According to Article 54 of the Act on Foreigners **the residence permit for a fixed period of time to be reunited with family** shall be granted to a family member of a foreigner residing on the territory of the Republic of Poland:

1. on the basis of a settlement permit;
2. on the basis of a residence permit for EC long-term resident;
3. holding a refugee status;
4. in connection with the granting of subsidiary protection;
5. at least 2 years on the basis of residence permits for a fixed period of time, including immediately before the submission of an application for a residence permit for a fixed period of time for a family member – on the basis of permit issued for the residence period not shorter than one year;
6. on the basis of residence permit for a fixed period of time referred to in Article 53(1) points 17 and 18.

#### **4.7 PERIOD FOR WHICH A RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME IS GRANTED**

**A residence permit for a fixed period of time is always granted for a period necessary for the foreigner to achieve the goal of their stay** in the territory of the Republic of Poland but no longer than **2 years**.

If the circumstance for applying for a residence permit for a fixed period of time is:

- **reunion with family** - for the period until the date for which a residence permit for a fixed period of time was granted to a foreigner, to whom they intend to come or came to be reunited with family, and if the foreigner holds a settlement permit, a residence permit for EC long-term resident or a refugee status granted in the Republic of Poland – for a period of 2 years;
- in case of a foreigner being a victim of **trafficking in human beings** - for 6 months;
- in case of a foreigner referred to in **Article 53a(2)** - for the period necessary to achieve the purpose for which it was issued, or to make a decision to cooperate with the authority competent to conduct proceedings on combating trafficking in human beings, **no longer than 3 months**;
- in case of a **minor child** - for the period until the date for which a residence permit for a fixed period of time was granted to their legal representative;
- taking up or continuing **studies** - 1 year;
- taking up **education or vocational training** - for the duration of studies or vocational training, but not longer than one year;
- conducting **scientific research** - 1 year.

**NOTE:**

If the circumstance, which is the basis for applying for a residence permit for a fixed period of time set out based on Article 53(1) **points 16-18** (point 16 - taking up or continuing full-time studies; point 17 - conducting scientific research; point 18 - foreigners holding a residence permit bearing the term "researcher") justifies the residence of a foreigner in the territory of the Republic of Poland **for less than one year**, a residence permit for a fixed period of time is granted in the case referred to in Article 53(1):

- 1) in point 16 - **for the duration of studies**;
- 2) point 17 - **for the period of the research project implementation**;
- 3) point 18 - **for a period of conducting scientific research in the territory of the Republic of Poland**.

#### **4.8 APPLICATIONS LEFT WITH NO FURTHER ACTION TAKEN**

An application for granting residence permit for a fixed period of time submitted by a foreigner is left **without consideration** in case of a foreigner who:

1. stays in the territory of the Republic of Poland based on a Schengen visa authorising only entry into and stay on the territory of the Republic of Poland for the purpose referred to in **Article 26(1) point 26**, or a residence permit for a fixed period of time referred to in **Article 53a(2)** (see **Chapter 4.2**), excluding a case of applying for a residence permit for a fixed period of time pursuant to **Article 53(1) point 15** (see **Chapter 4.1, point 15**);
  2. referred to in Article 110, i.e. **detained, placed in a guarded facility**, under arrest for the purpose of expulsion, against whom a preventive measure was applied in the form of the prohibition to leave the country, or deprived of liberty by the execution of judgments issued pursuant to acts of law;
  3. **holding a permit for a tolerated stay**;
- and**
4. **submitted an application containing defects in form, i.e.**
    - failure to fill in all necessary sections of the application,

- failure to present a valid travel document or, in particularly justified cases, when a foreigner does not have a valid travel document and it is not possible to obtain it, another document confirming their identity;
- failure to annex to the application:
  - 4 current photographs;
  - a legal title to live in a dwelling, if required;
  - a hosting agreement to carry out a research project, concluded with a scientific institution established in the Republic of Poland, and a written commitment of the scientific institution to bear the costs of residence and expulsion of a foreigner, covered by public funds within 6 months of the expiry of the agreement, if the basis for their deportation are circumstances defined in Article 88(1) point 1, in case of a foreigner referred to in Article 53(1) point 17;
  - a hosting agreement to carry out a research project, concluded with a scientific institution established in the territory of other than the Republic of Poland European Union Member State, and a written commitment of the scientific institution to bear the costs of residence and expulsion of a foreigner, covered by public funds within 6 months of the expiry of the agreement, if the basis for their deportation are circumstances defined in Article 88(1) point 1, in case of a foreigner referred to in Article 53(1) point 18;
  - the consent of persons who exercise parental authority over a minor foreigner applying for a residence permit for a fixed period of time.

#### 4.9 REFUSAL TO AWARD A RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME

**An foreigner shall be refused a residence permit for a fixed period, if:**

1. they do not meet the requirements referred to in the **Articles 53-53b**;
2. their **data are in the register** of foreigners whose stay in the territory of the Republic of Poland is undesirable;
3. their **data are in the Schengen Information System** for the purposes of refusing entry;
4. circumstances indicate that the **purpose of entry or stay** of a foreigner on the territory of the Republic of Poland is or will be **different than the declared one**;
5. the basis for applying for a permit is marrying a Polish citizen or a foreigner living in the territory of the Republic of Poland referred to in Article 54, **and the marriage was concluded in order to circumvent the provisions** on granting a residence permit for a fixed period of time;
6. it is justified by **national security or defence**, or by the protection of public safety and order or the interests of the Republic of Poland;
7. in the procedure for granting residence permit for a fixed period of time:
  - a) they **filed an application** or attached the documents containing **false personal data or false information**,
  - b) **they testified untruthfully or concealed the truth** or forged or transformed a document to use it as authentic, or used such document as authentic;
8. they were diagnosed with **a disease or infection** subject to the mandatory treatment under the Act of 5 December 2008 on preventing and fighting infections and infectious diseases in humans (Dz.U. No. 234, item 1570), or is suspected of such disease or infection, and the foreigner does not agree to the treatment;
9. they do not comply with **fiscal obligations to the Treasury**;

10. **they did not pay back the costs of expulsion**, which was funded by the State budget;
11. they reside **illegally** on the territory of the Republic of Poland;
12. they apply for granting another residence permit for a fixed period of time under Article 53(1) point 16, but they **failed to complete the academic year and receive a conditional entry for the next year or semester of studies**.

#### **4.10 CANCELLATION OF RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME**

**A residence permit for a fixed period of time shall be cancelled if:**

1. a reason for which it was granted ceased;
2. at least one of the circumstances referred to below has occurred:
  - the data of the foreigner are in the register of foreigners whose stay in the territory of the Republic of Poland is undesirable;
  - circumstances indicate that the purpose of entry or stay of a foreigner on the territory of the Republic of Poland is or will be different than the declared one;
  - the basis for applying for a permit is marrying a Polish citizen or a foreigner living in the territory of the Republic of Poland referred to in Article 54, and the marriage was concluded in order to circumvent the provisions on granting a residence permit for a fixed period of time;
  - it is justified by national security or defence, or by the protection of public safety and order or the interests of the Republic of Poland;
  - in the procedure for granting residence permit for a fixed period of time:
    - foreigner filed an application or attached the documents containing false personal data or false information,
    - foreigner testified untruthfully or concealed the truth or forged or transformed a document to use it as authentic, or used such document as authentic;
  - foreigner was diagnosed with a disease or infection subject to the mandatory treatment under the Act of 5 December 2008 on preventing and fighting infections and infectious diseases in humans (Dz.U. No. 234, item 1570), or is suspected of such disease or infection, and the foreigner does not agree to the treatment;
  - foreigner does not comply with fiscal obligations to the Treasury;
  - foreigner resides illegally on the territory of the Republic of Poland.
3. foreigner permanently left the territory of the Republic of Poland.

#### **4.11 APPLYING FOR THE RESIDENCE PERMIT FOR A FIXED PERIOD OF TIME IN CASE OF LIVING ABROAD**

**A foreigner staying abroad** applies for a residence permit for a fixed period of time through the **consul**, to the voivode competent for the foreigner's intended place of residence. The application for granting residence permit for a fixed period of time must be submitted using the form.

If the application for a residence permit for a fixed period of time was submitted abroad, the voivode's decision may be **served through a consul**.

If, at the time when the decision on granting a residence permit for a fixed period of time is issued the foreigner is staying abroad, in order to enter Poland they should apply for a **Schengen visa as part of a residence permit for a fixed period of time**.

**A residence card** shall be issued, after entry into the territory of Poland by a voivode that issued the residence permit for a fixed period of time. A foreigner is obliged to collect the residence card **in person**, and in case of minors below 13 – the card is to be collected by a statutory representative or legal guardian.

## CHAPTER V

### SETTLEMENT PERMIT

A settlement permit shall be granted to a foreigner who:

1. **is a minor child of a foreigner** holding a settlement permit born on the territory of the Republic of Poland;
2. **is married** to a Polish citizen **for at least 3 years** before submitting the application and who immediately before submitting the application resided continuously on the territory of the Republic of Poland for at least **2 years** on the basis of residence permit for a fixed period of time;
3. immediately before submitting the application resided continuously on the territory of the Republic of Poland over a period of not less than **10 years on the basis of permit for a tolerated stay** granted under Article 97(1) point 1 or 1a, or Paragraph 2 of the Act of 13 June 2003 on granting protection to foreigners on the territory of the Republic of Poland or for a period of **5 years in connection with obtaining the refugee status or subsidiary protection**;
4. is a child of a Polish citizen and is under their parental authority.

#### 5.1 AUTHORITY ISSUING THE DECISION

The decision to grant settlement of a foreigner. An application for a settlement permit shall be made on an application form.

#### 5.2 UNINTERRUPTED STAY REQUIREMENT – JUSTIFIED BREAKS IN STAY

A stay within the territory of the Republic of Poland is considered **uninterrupted** if no break in it was **longer than 6 months and exceeded 10 months in total**, unless the break was caused by:

- **execution of professional duties** or performance of work outside the territory of the Republic of Poland based on an agreement made with an employer whose registered office is located in the territory of the Republic of Poland;
- **accompanying the spouse** executing professional duties or performing work under the conditions referred to in point 1;
- **foreigner's medical treatment.**

#### 5.3 DOCUMENTS

A foreigner is obliged to:

- present a **valid travel document**. In particularly justified cases, when a foreigner does not have a valid travel document and it is not possible to obtain it, the foreigner **can present another document confirming their identity**.
- submit a **completed application form** and attach the following to the application:
  - **4 up-to-date photographs** – not damaged, coloured, measuring 35 x 45 mm, taken within previous 6 months with a standardised, fair background, with good focus, clearly presenting the eyes and face from the top of the head to the upper part of shoulders, so that face occupies 70-80% of the photo; the photos should present a person with no headdress and no dark eyeglasses looking ahead with open eyes not covered by hair, with a natural face expression and closed lips;

- documents necessary to confirm the details contained in the application and the circumstances justifying the application for a residence permit for a fixed period of time;
- **proof of stamp duty payment;**
- **legal title to the occupied dwelling** in which one resides or intends to reside, when applying for a settlement permit on the basis of Article 64(1) point 3. **A legal title to live in the dwelling in which a foreigner resides or intends to reside shall not be constituted by a contract of lending a dwelling for use**, unless their descendant, ascendant, spouse, parents of the spouse or foreigner's siblings is the party lending for use.

#### 5.4 ADDITIONAL REQUIREMENTS CONCERNING THE APPLICATION

A foreigner may apply for a settlement permit at the time of their **legal stay** in the territory of the Republic of Poland.

If the foreigner submitted an application during their legal stay in the territory of the Republic of Poland and the application does not contain any defects of form or the defects of form were remedied within the deadline set, the voivode puts a **stamp imprint** confirming submission of an application for a settlement permit. At the same time, when carrying out the above-mentioned activities, the stay of a foreigner within the territory of the Republic of Poland is considered legal until a final decision on settlement permit is taken.

If settlement permit **proceedings** are **suspended at the request of the foreigner**, their **stay** at that time **shall not be considered legal**.

**NOTE:**

**Putting a stamp in the travel document does not entitle the foreigner to travel within the territory of other Schengen states, while the foreigner may leave for their country of origin.**

#### 5.5 APPLICATIONS LEFT WITH NO FURTHER ACTION TAKEN

An application for **settlement permit submitted by a foreigner is left without consideration**, in case of a foreigner who:

- resides **abroad**;
- resides **illegally** within the territory of the Republic of Poland;
- stays within the territory of the Republic of Poland on the basis of the Schengen visa authorising only the entry into and stay on the territory of the Republic of Poland for the purpose referred to in **Article 26(1) point 26** of the Act on Foreigners, namely for the purpose of a stay due to humanitarian reasons, due to state interest or due to international obligations;
- stays within the territory of the Republic of Poland on the basis of a residence permit for a fixed period of time granted under **Article 53a(2)** of the Act on Foreigners in case of foreigners illegally staying within the territory of the Republic of Poland; or
- was detained, **placed in a guarded facility**, under arrest in order to be expelled, against whom a preventive measure was applied in the form of a prohibition on leaving the country, or serving a custodial sentence due to execution of a judgement issued on the basis of acts of law;

and

- **submitted an application containing defects in form, i.e.:**
  - failure to fill in all necessary sections of the application,
  - failure to present a valid travel document or, in particularly justified cases, when a foreigner does not have a valid travel document and it is not possible to obtain it, another document confirming their identity;
  - failure to annex to the application:
    - 4 up-to-date photographs;
    - a legal title to live in a dwelling, if required.

## 5.6 REFUSAL TO AWARD A SETTLEMENT PERMIT

**A settlement permit shall not be granted to a foreigner if:**

1. **they do not meet the requirements** referred to in the **Articles 64(1)**;
2. their **data are in the register of foreigners** whose stay in the territory of the Republic of Poland is undesirable;
3. their **data are in the Schengen Information System** for the purposes of refusing entry;
4. it is justified by **national security or defence**, or by the protection of public safety and order or the interests of the Republic of Poland;
5. the basis for applying for a permit is marrying a Polish citizen or a foreigner living in the territory of the Republic of Poland, **and the marriage was concluded in order to circumvent the provisions** on granting a residence permit for a fixed period of time or a settlement permit;
6. in the proceedings on granting a settlement permit:
  - a) **they filed an application** or attached the **documents containing false personal data or false information**,
  - b) **they testified untruthfully or concealed the truth** or forged or transformed a document to use it as authentic, or used such document as authentic;
7. **they do not comply with fiscal obligations to the Treasury**;
8. **they do not pay back the costs of expulsion**, which was funded by the State budget.

## 5.7 REVOKING OF A SETTLEMENT PERMIT

**A foreigner's settlement permit is revoked if:**

- 1) this is required by reasons of defence, state security or public order and safety or interests of the Republic of Poland;
- 2) an application for such permit or the documents appended thereto contained untrue personal details or false information;
- 3) during the procedure of granting a settlement permit, the foreigner gave false evidence or dissimulated the truth or either forged or transformed a document to use it as authentic or used such a document as authentic;
- 4) they were convicted of an intentional crime by a final judgment in the Republic of Poland to serve at least three-year custodial sentence;
- 5) they permanently left the territory of the Republic of Poland.

## 5.8 PERIOD FOR WHICH A SETTLEMENT PERMIT IS ISSUED

A settlement permit is issued for an **indefinite** period of time.

The document confirming obtaining the settlement permit is the **residence card issued for 10 years**.

The settlement permit is legally annulled on the day on which the foreigner is granted a residence permit for a EC long-term resident.

## CHAPTER VI

### RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT

Residence permit for EC long-term resident **shall be granted** at the request of a foreigner residing on the territory of the Republic of Poland, **immediately before submitting the application, legally and continuously for at least 5 years**, who has:

- **stable and regular source of income** sufficient to cover the costs of maintaining themselves and dependant their family members;
- **health insurance** within the meaning of regulations on general health insurance or confirmation of coverage of treatment costs by the insurer within the territory of the Republic of Poland.

#### 6.1 AUTHORITY ISSUING THE DECISION

The decision on the issue of residence permit for EC long-term resident is issued by a **voivode** competent for the foreigner's place of residence. An application for the issue of residence permit for EC long-term resident is submitted using a form.

#### 6.2 DOCUMENTS

A foreigner is obliged to:

- present a valid **travel document**. In particularly justified cases, when a foreigner does not have a valid travel document and it is not possible to obtain it, the foreigner can present another document confirming their identity.
- submit a **completed application form** and attach the following to the application:
  - **4 up-to-date photographs** – not damaged, coloured, measuring 35 x 45 mm, taken within previous 6 months with a standardised, fair background, with good focus, clearly presenting the eyes and face from the top of the head to the upper part of shoulders, so that face occupies 70-80% of the photo; the photos should present a person with no headdress and no dark eyeglasses looking ahead with open eyes not covered by hair, with a natural face expression and closed lips;
  - **the documents necessary to confirm the data included in the application** and the circumstance justifying the issue of residence permit for EC long-term resident;
  - **proof of stamp duty payment;**
  - **legal title to live in the dwelling** in which a foreigner resides or intends to reside. A **legal title** to live in the dwelling in which a foreigner resides or intends to reside **shall not be constituted by a contract of lending a dwelling for use**, unless their descendant, ascendant, spouse, parents of the spouse or foreigner's siblings is the party lending for use.

#### 6.3 ADDITIONAL REQUIREMENTS CONCERNING THE APPLICATION

A foreigner may submit an application for the issue of a residence permit for EC long-term resident during a **legal stay** within the territory of the Republic of Poland.

If the foreigner submitted an application during their legal stay in the territory of the Republic of Poland and the application does not contain any defects of form or the defects of form were remedied within the deadline set, the voivode puts a **stamp imprint** in the foreigner's travel document confirming submission of an application for granting a residence permit for EC

long-term resident. At the same time, when carrying out the above-mentioned activities, **the stay of a foreigner within the territory of the Republic of Poland is considered legal until a final decision on a residence permit for EC long-term resident is taken.**

If residence permit for EC long-term resident **proceedings are suspended at the request of the foreigner, their stay at that time shall not be considered legal.**

**NOTE:**

**Putting a stamp in the travel document does not entitle the foreigner to travel within the territory of other Schengen states, while the foreigner may leave for their country of origin.**

#### **6.4 APPLICATIONS LEFT WITH NO FURTHER ACTION TAKEN**

An application for the issue of a **residence permit for EC long-term resident submitted by a foreigner is left without consideration**, in case of a foreigner who:

- resides **abroad**;
- resides **illegally** within the territory of the Republic of Poland;
- stays within the territory of the Republic of Poland on the basis of the Schengen visa authorising only the entry into and stay on the territory of the Republic of Poland for the purpose referred to in **Article 26(1) point 26** of the Act on Foreigners, namely for the purpose of a stay due to humanitarian reasons, due to state interest or due to international obligations;
- stays within the territory of the Republic of Poland on the basis of a residence permit for a fixed period of time granted under **Article 53a(2)** of the Act on Foreigners in case of foreigners illegal stay within the territory of the Republic of Poland; or
- was detained, **placed in a guarded facility**, under arrest in order to be expelled, against whom a preventive measure was applied in the form of a prohibition on leaving the country, or serving a custodial sentence due to execution of a judgement issued on the basis of acts of law;
- stays within the territory of the Republic of Poland in order to **complete studies or vocational training**;
- **holds a permit for a tolerated stay, asylum or refugee status granted in the Republic of Poland or uses subsidiary protection or temporary protection**;
- **applies for refugee status or asylum**;
- is an **au pair** employee, seasonal employee, employee delegated by a service provider for the purpose of cross-border service provision or who is a service provider rendering cross-border services; and
- stays within the territory of the Republic of Poland on the basis of a residence permit for a fixed period of time granted under **Article 53(1) point 5 or 7 or based on Article 53a(1) point 1(a)** of the Act on Foreigners,

and

- **submitted an application containing defects in form, i.e.:**
  - failure to fill in all necessary sections of the application,
  - failure to present a valid travel document or, in particularly justified cases, when a foreigner does not have a valid travel document and it is not possible to obtain it, another document confirming their identity;
  - failure to annex to the application:
    - 4 up-to-date photographs;

- a legal title to live in a dwelling.

#### **6.5 PERSONS WHO MAY NOT OBTAIN A RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT**

**A residence permit for EC long-term resident must not be granted to a foreigner:**

1. who stays within the territory of the Republic of Poland in order to **complete studies or vocational training**;
2. **who holds a permit for a tolerated stay, asylum or refugee status** granted in the Republic of Poland or uses subsidiary protection or temporary protection;
3. **applying for refugee status or asylum**;
4. who is an **au pair** employee, seasonal employee, employee delegated by a service provider for the purpose of cross-border service provision or who is a service provider rendering cross-border services;
5. staying within the territory of the Republic of Poland on the basis of the Schengen visa authorising only the entry into and stay on the territory of the Republic of Poland for the purpose referred to in **Article 26(1) point 26** or a residence permit for a fixed period of time granted **under Article 53(1) point 5 or 7 or Article 53a(1) point 1(a) or Paragraph 2** of the Act on Foreigners;
6. who was detained, **placed in a guarded facility**, under arrest in order to be expelled, against whom a preventive measure was applied in the form of a prohibition on leaving the country, or serving a custodial sentence due to execution of a judgement issued on the basis of acts of law.

#### **6.6 CONDITION OF A 5-YEAR LEGAL AND CONTINUOUS RESIDENCE**

The **5-year residence period** determining the award of a residence permit for EC long-term resident **does not include** the stay of a foreigner:

1. detained, **placed in a guarded facility**, under arrest in order to be expelled, against whom a preventive measure was applied in the form of a prohibition on leaving the country, or serving a custodial sentence due to execution of a judgement issued on the basis of acts of law;
2. as an **au pair** employee, seasonal employee, employee delegated by a service provider for the purpose of cross-border service provision or who is a service provider rendering cross-border services;
3. on the basis of the Schengen visa authorising only the entry into and stay on the territory of the Republic of Poland for the purpose referred to in **Article 26(1) point 26**, a visa issued for the purpose of taking up or continuing education or a residence permit for a fixed period of time granted under **Article 53(1) point 5 or 7 or Article 53a(1) point 1(a) or Paragraph 2**.
4. as a **head or member of diplomatic mission**, director of consular post and member of consular personnel of a foreign state and another person equivalent to them on the basis of acts of law, agreements or commonly adopted international customs.

**The 5-year residence period determining the award of residence permit for EC long-term resident includes half of the period of the stay of a foreigner:**

1. on the basis of a visa granted in relation to completing **studies or vocational training**, or

2. on the basis of a residence permit for a fixed period of time granted in relation to the circumstances referred to in **Article 53(1) point 16 or Article 53a(1) point 1(b)** of the Act on foreigners (studies or vocational training).

#### **6.7 UNINTERRUPTED STAY REQUIREMENT – JUSTIFIED BREAKS IN STAY**

A stay within the territory of the Republic of Poland is considered **uninterrupted** if no break in it was longer than **6 months** and exceeded **10 months in total**, unless the break was caused by:

- **execution of professional duties** or performance of work outside the territory of the Republic of Poland based on an agreement made with an employer whose registered office is located in the territory of the Republic of Poland;
- **accompanying the spouse** executing professional duties or performing work under the conditions referred to in point 1;
- **foreigner’s medical treatment.**

#### **6.8 REFUSAL TO AWARD A RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT**

**A residence permit for EC long-term resident shall not be granted to a foreigner if:**

1. they do not meet the requirements referred to in the Article 65(1);
2. it is justified by **national security or defence**, or by the protection of public safety and order.

#### **6.9 REVOKING A RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT**

**A foreigner’s residence permit for EC long-term resident is revoked if:**

3. **the residence permit for EC long-term resident was granted in breach of law;**
4. it is a real and serious **threat** to state defence or security, or the protection of public security and order;
5. **they left the territory of the Republic of Poland** for a period longer than **6 years;**
6. **they left the territory of the European Union** for a period of consecutive **12 months;**
7. **they obtained a residence permit for EC long-term resident within the territory of another European Union Member State.**

#### **6.10 RE-OBTAINING A RESIDENCE PERMIT FOR EC LONG-TERM RESIDENT**

In case when a residence permit for EC long-term resident was revoked due to reasons referred to in **Article 69(1) points 3-5** of the Act on Foreigners, the next residence permit for EC long-term resident is granted when the foreigner meets the conditions specified in Article 65, with the proviso that prior to submitting an application for the issue of another permit they should **legally and uninterruptedly stay within the territory of the Republic of Poland for at least 3 years.**

#### **6.11 THE PERIOD FOR WHICH A RESIDENCE PERMIT FOR EC RESIDENT IS GRANTED**

A residence permit for EC long-term resident is granted for an **indefinite** period.

The document confirming obtaining the residence permit for EC long-term resident is the **residence card issued for 5 years.**

Once a foreigner is granted a residence permit for EC long-term resident, the settlement permit awarded to the foreigner expires under the statute.

## CHAPTER VII

### RESIDENCE CARD

#### 7.1 BASIC INFORMATION

**The foreigner who obtained:**

- residence permit for a fixed period of time;
- settlement permit;
- residence permit for EC long-term resident  
- receives a residence card.

A **residence card**, during its validity period, confirms the foreigner's identity during their stay in the territory of the Republic of Poland and entitles, together with a travel document, to multiple crossing of the Polish border without the necessity of obtaining a visa.

In the **absence of registration** for temporary residence lasting over 2 months, the address data shall not be placed on the residence card.

If, at the time when the decision on granting a residence permit for a fixed period of time is issued the foreigner is staying abroad, in order to enter Poland they should apply for a **Schengen visa as part of a residence permit for a fixed period of time**.

A **residence card** shall be issued, after entry into the territory of the Republic of Poland, by a voivode that issued the residence permit for a fixed period of time. A foreigner is obliged to collect the residence card **in person**, and in case of minors below 13 – the card is to be collected by a statutory representative or legal guardian.

**PLN 50 is charged for the issue of a residence card. The fee must be paid to the account of the competent voivode.**

#### 7.2 REPLACEMENT OF THE RESIDENCE CARD

A foreigner is obliged **to replace their residence card** in the case of:

1. change of card details;
2. change of the person's appearance that hinders the establishment of their identity;
3. damaging the card to the degree that prevents its use;
4. loss or destruction of the card;
5. expiration of the validity of the residence card issued in relation to obtained settlement permit or residence permit for EC long-term resident.

#### 7.3 BODY REPLACING THE RESIDENCE CARD

A residence card may be replaced by a **voivode competent for the foreigner's place of residence**. Residence card is issued and replaced after the due **fee** is paid.

**An application** for card replacement is submitted using a **form**. A foreigner applying for residence card replacement is obliged to **present a valid travel documents and attach the following to the application:**

- 1) **photographs** of persons covered by the application, **performed in a relevant format**;
- 2) **documents necessary to confirm the data** and circumstances entered in the application.

In particularly justified cases, when a foreigner applying for the replacement of a residence card does not have and cannot obtain a valid travel document, they may present **another document confirming their identity**.

#### **7.4 LOSS OF THE RESIDENCE CARD**

A foreigner who **lost the residence card**, is obliged to notify the **voivode** who issued it about this fact within **3 days** of its loss. In case when a lost residence card is found, a foreigner is obliged to notify the voivode within 3 days of finding it, and immediately return the found residence card if the lost card has already been replaced with a new one.

The foreigner is obliged to **immediately return the residence card** to the authority which issued it after the service of the document confirming **the acquisition of Polish citizenship** or the decision to cancel the residence permit for a fixed period of time, settlement period or a residence permit for EC long-term resident.

#### **7.5 TRAVELLING ON THE BASIS OF THE RESIDENCE CARD**

**A foreigner is allowed to travel and stay within the territory of the Schengen states (including the territory of the Republic of Poland) without the necessity of having a visa during a period no longer than 3 months within a 6-month period on the basis of a residence permit issued by one of the Schengen states, a residence card in the case of Poland**, if, at the same time, they meet the general conditions of entry and stay in the territory of the Schengen states, i.e.:

- they hold a **valid travel document**,
- they can **justify the purpose and conditions of the planned stay**, and
- they **have sufficient resources** to support themselves or the ability to obtain such resources legally, and also
- **they are not considered to pose a threat to public order**, internal security, public health or international relations of any of the Member States and, in particular, on this basis no registration in the national databases of Member States was made against them for purposes of refusing entry.

**The Schengen states include:** Austria, Belgium, Denmark, Finland, France, Greece, Spain, Luxembourg, Netherlands, Germany, Portugal, Sweden, Italy, Estonia, Lithuania, Latvia, Malta, Poland, Czech Republic, Slovakia, Slovenia, Hungary, as well as Switzerland, Norway and Iceland (last three countries are Schengen states not belonging to the EU).

**Please, note that the United Kingdom, Ireland, Cyprus, Bulgaria and Romania are non-Schengen EU Member States.**

## CHAPTER VIII

### APPEAL PROCEDURE

The party dissatisfied with the decision of the competent voivode issuing the decision on: a residence permit for a fixed period of time / settlement permit / a residence permit for EC long-term resident / visa extension / replacement of the residence card shall have the right to **appeal** to the authority of a higher level, i.e. in the aforementioned cases **Head of the Office for Foreigners**, within **the statutory period of 14 days from the day of delivering the decision**.

**The appeal can be lodged to the Head of the Office for Foreigners through the medium of a voivode who issued the decision.** The person filing an appeal is obliged to **sign it personally**.

**General Issues (see Chapter II) shall be applicable in appeal procedures.**

#### 8.1 FAILURE TO MEET THE DEADLINE

In case of failure to meet the deadline to lodge an appeal, **within seven days** of expiration of causes of the failure to meet the deadline, a foreigner may **file a request to restore the deadline**. The foreigner should be able to **substantiate that the failure to meet the deadline occurred without their fault**. **An appeal should be lodged along with the request.**

#### 8.2 GETTING ACQUAINTED WITH CASE FILES

In case of the intention to get acquainted with the evidence collected in the case, a party or proxy thereof should **get in touch via telephone** with the secretariat of the Division of Appeal Procedures, Department for Legalisation of Stay, Office for Foreigners – **phone (22) 60 175 14** in order to arrange for a specific date for meeting at the Foreigner Service Point of the Office for Foreigners at **ul. Taborowa 33 in Warsaw**.

**Telephone information about the case is provided on weekdays, except Wednesdays from 10.00 am to 3.00 pm.**

#### 8.3 METHODS OF SUBMITTING APPLICATIONS, DOCUMENTS, CLARIFICATIONS AND STATEMENTS

**THE SUBMITTED DOCUMENTS SHOULD INCLUDE:**

- **originals or officially certified true copies. When producing the original, a foreigner may confirm that the document is a true certified copy at the Registry Office of the Office for Foreigners: ul. Koszykowa 16; 00 –564 Warsaw, from 8.15 am to 4.00 pm.**
- **translated into Polish by a Polish certified translator.**

**Documents (applications, clarifications, statements) can be also submitted:**

- **Through a post office operator to the address:** ul. Koszykowa 16; 00 –564 Warsaw.
- **Directly at the Registry Office of the Office for Foreigners:** ul. Koszykowa 16; 00 –564 Warsaw, from 8.15 am to 4.00 pm.

#### **8.4 COMPLAINT**

The party has the option of making a **complaint** from the decision of the Head of the Office for Foreigners **to the Voivodeship Administrative Court in Warsaw** within 30 days of receipt of the decision. **The party files the complaint through the Head of the Office for Foreigners.**

**Lodging a complaint to the Voivodeship Administrative Court in Warsaw pertaining to the final decision does not legalise the foreigner’s stay on the territory of Poland.**

## Declaration

*I received the instruction (what language?) .....*

.....  
(place, date)

.....  
signature of the applicant  
or legal representative

.....  
*alternatively interpreter's signature*