

monthly newsletter

# WHAT'S NEW IN GLOBAL MOBILITY & IMMIGRATION

August 2023



## Dear Readers,

Here is the latest What's New in Global Mobility&Immigration. As always, we keep an eye on the latest changes for you. We are ready to support you in all immigration matters.

We would like to encourage you to follow our firm on social media to keep abreast of all relevant immigration news.

Enjoy your reading and please get in touch if you have any questions.

**Karolina Schiffter**, advocate, partner

**Ewa Wysocka**, trainee attorney-at-law, lawyer

## CONTINUATION OF SOLE TRADER OPERATIONS AFTER POLAND BUSINESS HARBOUR (PBH) VISA EXPIRATION

The list of support programs for foreigners published at the end of July on the Prime Minister Office's website state that foreigners who established a business in Poland on the basis of a PBH visa have the right to continue its operations (and cooperate as self-employed persons on the basis of B2B contracts) even after expiry of the visas, including visas extended under regulations implemented due to the COVID-19 pandemic.

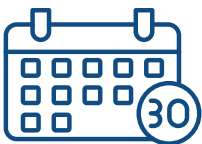


To maintain the right to continue business operations after PBH visa expiration, a submission of an application for a residence permit is necessary prior to its expiration, which allows foreigners to undertake and carry out business activities in Poland.

## ILLEGITIMATE LOSS OF UKR STATUS – HOW TO BE PROTECTED?

Recently, the issue of Ukrainian citizens losing their UKR status despite returning to Poland from abroad within 30 days was raised in the media (under provisions of the Special Act, staying abroad longer than 30 days entails the loss of UKR status). This was a significant problem, since the UKR status confirms the legality of stay in Poland, and allows for access to the 500+ benefit and insurance in the Polish NFZ.

The Ministry of the Interior and Administration issued guidelines on this issue. Ukrainian citizens with the UKR status (i.e. those granted temporary protection in Poland under the Special Act on help for Ukraine) should declare their intention to continue temporary protection in Poland each time at the border and present an electronic diia.pl document when returning to Poland after a short stay abroad. This Ministry recommends Ukrainian citizens to ensure that their entry is recorded in an appropriate Border Guard register.



In case of losing the UKR status illegitimately, it is possible to regain it retroactively from the moment of its loss. However, this requires additional steps at the district office, and in practice may be difficult if the Ukrainian citizen does not have evidence that their stay abroad did not exceed 30 days.

## WHAT IS NEXT FOR THE LAW ON EMPLOYMENT OF FOREIGNERS?

A separate law on employment of foreigners has been in the works since 2022. The bill was intended to re-regulate the rules for issuing work permits, registering declarations of entrustment of work to foreigners and to organize the issues of foreigners' rights to work in Poland. The project contained a number of much-anticipated changes, such as the end of the so-called "labour market test" (Information of the Starost).

Originally the bill was to be passed by the end of 2022. We now know that the next planned date – 1 January 2024 – will not be kept. In the Sejm's current ninth term the works on the law will not be continued. We are not sure what will be the further fate of this bill, and whether the next term of the Sejm will resume works on this legislation.

## END OF THE STATE OF EPIDEMIC EMERGENCY AND VALIDITY OF DOCUMENTS LEGALIZING FOREIGNERS' STAY AND WORK IN POLAND

First month since the end of epidemic emergency in Poland has passed. With the end of the state of epidemic emergency, foreigners using documents extended by the provisions of the so-called "anti-covid shield" lost the possibility to legally stay and work in Poland. This issue appears repeatedly in our publications, because we see that it could cause serious problems – both for employers and employees who have become accustomed to the lenient covid provisions.

This is currently one of the most closely controlled issues during Labour Inspectorate and Border Guard inspections. Hence, it is very important to verify documents legalizing work and stay of employed foreigners. The consequences of illegal employment are very serious (including deportation, and employer's inability to obtain further work permits) even if this was not the employer's or employee's intention.



### GLOBAL MOBILITY&IMMIGRATION

We advise on all global workforce mobility matters, including immigration, tax and social security issues. Our practical solutions are based on years of experience.

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