

monthly newsletter

WHAT'S NEW IN GLOBAL MOBILITY & IMMIGRATION

September 2023



Dear Readers,

Here is our latest edition of What's New in Global Mobility & Immigration, which includes the most interesting news and topics concerning employment and non-national mobility.

We also recommend that you follow PCS | Littler on social media to keep up to date with all relevant immigration news.

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

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POLISH VISA SCANDAL AND ITS IMPACT ON EMPLOYERS

The media has reported that thousands of Polish visas may have been issued by consulates in Asian and African countries as a result of corruption. The availability of visa appointments in these countries was severely limited and there was often a long wait of many weeks or months for an appointment. The Ministry of Foreign Affairs (MFA) is currently under investigation for allegedly taking payments to speed up visa procedures.

What effect might the visa scandal have on employers in practice?

- ✓ On 15 September, the MFA announced it would terminate contracts for some visa centres, which will further reduce visa appointment availability and increase waiting times for visas.
- ✓ We expect that consulates will now verify visa applications even more thoroughly, which may further increase visa waiting times at consulates where corruption has been found, for example, in India.
- ✓ This may also result in a higher number of negative visa decisions.
- ✓ Criminal proceedings may be initiated against employers and employees found to have used visa providers who had illegally sped up visa procedures.

UKRAINE MAY DEMAND THAT POLAND SURRENDER MALE UKRAINIANS WORKING HERE

Ukrainian legislation introduced shortly after Russia invaded Ukraine severely restricted the right of Ukrainian men to leave the country. Despite these restrictions, many Ukrainians have entered Poland over the past several months and taken up jobs in Polish companies. Now, many of them may face forced surrender back to Ukraine.



Even if a Ukrainian citizen violated their national law by leaving the country, it has no bearing on whether they can legally stay and work in Poland. However, an alleged violation of Ukrainian legislation may give the Ukrainian authorities a reason to officially request Polish authorities to apprehend and surrender a Ukrainian citizen to the Ukrainian authorities.

The media has reported that the Ukrainian authorities announced they will make such requests to the Polish authorities concerning military-aged men who have 'illegally left Ukraine, fleeing conscription'.

The process of handing over a Ukrainian citizen to the Ukrainian authorities requires a special extradition procedure in Poland, which involves a criminal court. If such a case is carefully and competently handled, the court may be persuaded not to surrender the man to the Ukrainian authorities. PCS | Littler's Global Mobility & Immigration team is ready to provide our clients and their Ukrainian employees with full support in this regard.

POLISH BORDERS MIGHT CLOSE TO RUSSIANS AND BELARUSIANS

Interior Ministers of Poland, Lithuania, Latvia and Estonia have expressed their readiness to restrict movement or even to close the borders completely to travellers from Belarus and Russia if the authorities of these countries do not stop actions described as attempts to intentionally destabilise the situation in the region. It is to be expected that, if borders actually close, they will most likely include land air border crossings with Poland, Lithuania, Latvia and Estonia.

However, we do not expect a ban on travel from Belarus or Russia to Poland through another Schengen country that does not impose such barriers on travellers. At present, no further restriction details are known.

END OF VISA APPLICATIONS BY POST FROM POLAND

The Consulate General of the Republic of Poland in Lviv - the only Polish consulate currently providing visa services in Ukraine - allows visa applications to be submitted by post. In August, however, the consulate informed on its website that only Ukrainian citizens who reside within the territory of the country can apply for visas by post.



For some Ukrainian citizens, this is yet another obstacle to legalising their stay in Poland. In practice, the option to apply for visas by post was used by many Ukrainians who resided in Poland and were unable to return to Ukraine for various reasons. It is still possible to extend the legality of stay in Poland without leaving its territory, but some Ukrainians, for example, those with UKR status with a purpose of stay other than work or business, may experience additional difficulties.

SUBSIDIARY PROTECTION FOR BELARUSIANS

In recent weeks, there has been an increase in successful applications for subsidiary protection for Belarusian citizens. This applies to those who have engaged politically on the opposition side and against President Alexander Lukashenko. This is largely the result of the deteriorating political situation in Belarus and increasing emigration from the country, particularly by those repressed by the government.

Moreover, applications for international protection are currently being processed relatively fast (2-6 months), so it is definitely an option to consider for Belarusian workers. We will be happy to assist you in assessing whether your Belarusian employer qualifies for subsidiary protection. Persons covered by this type of protection have access to the Polish labour market without having to obtain a separate permit.

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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