

monthly newsletter

WHAT'S NEW IN GLOBAL MOBILITY & IMMIGRATION

October 2024



Dear Readers,

We are pleased to present to you a special, extended edition of "What's New in Global Mobility & Immigration". This time, we are giving you a comprehensive summary of the most important planned and currently processed changes in immigration law.

The summary includes:

- I. Major changes proposed by the Ministry of Family, Labour and Social Policy (ML).**
- II. Major changes proposed by the Ministry of Foreign Affairs (MFA).**
- III. Fast-track for entrepreneurs of significant importance to the national economy.**
- IV. Tightening criminal regulations regarding the employment of foreigners.**
- V. Major changes proposed by the Ministry of Interior and Administration (MIA).**
- VI. Works on Poland's migration strategy for 2025-2030.**

We are pleased to invite you to participate in a webinar: **Upcoming Changes in Polish Immigration Law**, 24 October 2024, 4:00-4:45 p.m. CEST, online. Register: [here](#).

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

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I. Major changes proposed by the ML

ML is working on a bill of a new comprehensive act on the employment of foreigners. This bill is called in Polish: *Projekt ustawy o warunkach dopuszczalności powierzania pracy cudzoziemcom na terytorium Rzeczypospolitej Polskiej*.

These works are not coordinated with those of MFA (see Sec. II). The proposals for changes by both ministries sometimes concern the same issues, but their visions of regulation differ.

The bill is to enter into force on 1 January 2025.

The bill maintains – with minor changes – the current rules for access by foreigners to the Polish labour market. The bill also maintains the exclusion of acceleration letters (in Polish: *ponaglenie*) in cases of work permits and Special Permissions.

However, the bill introduces very significant changes, including:

1. Full electronication of proceedings re. the legalization of the work of foreigners

All applications, appeals, documents and letters concerning them in cases of work permits and Special Permissions are to be submitted to the authorities only via the employer's individual account in the *praca.gov.* system.

These documents will require a qualified electronic signature or a trusted signature (ePUAP).

All decisions, notifications, summonses and other letters from the authorities will also be prepared electronically and delivered to the employer to their individual account in the *praca.gov.* system. Information about their delivery in this way will additionally be sent to the email or phone number indicated on this account.

The documents from the authorities will be deemed as delivered upon their receipt in the individual account or after 14 days from the date of their placement in the account – in the event of their failure of receipt.

2. Condition of an employment contract in order to obtain a work permit and/or a Special Permission

In the course of work on the bill, the ML introduced a rule that a work permit for a local hires and/or a Special Permission will only be issued if the foreigner will work on the basis of an employment contract (as opposed to so-called civil law contracts commonly used in Poland as an alternative to employment contracts, escaping the protective labour law regime). The same condition is also provided for foreigners applying for a Single Permit.

Work under civil law contracts remains available to foreigners with full rights to work in Poland and/or work permit exempted. However, the requirement of an employment contract will apply in the case that a foreigner exempt from a work permit applies for a Single Permit.

3. Elimination of the labour market test

ML proposes to eliminate the labour market test.

Instead, it proposes to allow regional authorities to establish lists of professions for which it will not be possible to issue a work permit to foreigners, due to a “difficult situation in the local job market”

Lists of professions will be developed locally for each county (in Polish: *powiat*).

4. Possibility of limiting the right to work for foreigners staying in Poland on the basis of visa-free movement

At the request of the MFA or the MIA the ML may determine, by way of a regulation, a list of countries whose citizens, despite having a work permit, will not have the right to work during their stay in Poland under visa-free movement.

For citizens of these countries, this may mean the obligation to obtain long-term visas on top of work permits in order to work in Poland.

It is to combat abuses involving the use of work permits to facilitate entry of foreigners into the Schengen Area without the intention of working in Poland.

5. Obligation to store a sworn translation into Polish of a contract concluded with a foreigner – in the case a contract was drawn up in a foreign language

The obligation applies to all foreigners: those who require a work permit/Special Permission and those exempt from this requirement.

A contract drawn up in a foreign language must be translated into Polish by a sworn translator entered on the list of such translators kept by the Minister of Justice.

The employer is obliged to keep this translation and the contract itself for the period of work performed by the foreigner and for 2 years from the end of the calendar year in which the contract with the foreigner is terminated or expires (unless separate regulations provide for a longer period).

6. Tightening the rules on issuing work permits and Special Permissions – including new mandatory and optional grounds for refusal

New rules make it obligatory for authorities to deny work permits and/or Special Permissions in case of suspected abuse (e.g. the employer is not conducting any genuine business activity and/or work permit is sought without actual intention to entrust work to the foreigner).

7. **Obligation to provide the authorities with a copy of the contract with the foreigner concluded in Polish via the praca.gov. system before work commencement**

The obligation applies to every local employer who has been issued a work permit and/or a Special Permission. Violation of this obligation will constitute an offence punishable by a fine. See also Sec. IV.



II. **Major changes proposed by the MFA**

The MFA is working on a bill amending the current regulations on the stay and work of foreigners in Poland. This bill is called in Polish: *Projekt ustawy o zmianie niektórych ustaw w celu wyeliminowania nieprawidłowości w systemie wizowym Rzeczypospolitej Polskiej*.

These works are not coordinated with the works of the ML (see Sec. I). The proposals for changes by both ministries sometimes concern the same issues, but their visions of regulation differ.

The act is to enter into force on 1 July 2025.

This bill includes, among others:

1. **Abolition of work exemption for foreigners with a temporary residence permit for the purpose of studying**

The MFA is seeking to restrict access to the Polish labour market for foreign students. This is being done to counteract the abuse of such residence permits for purposes unrelated to academic education.

However, this change will only apply to student residence permits issued on or after 1 July 2025. Employing the holder of such a permit will require a separate work permit or other document authorising work.

Holders of temporary residence permits for the purpose of study issued no later than 30 June 2025 will retain the right to work (work permit exemption) during their validity period.

The change was not consulted with ML. The bill of ML maintains the exemption from work permits for holders of temporary residence permits for the purpose of studying.

2. **Modification of the obligation to notify the authorities about circumstances that are significant for the validity of a work permit (delay, break and early termination of work)**

Currently, a delay in starting work in relation to the initial validity date of the work permit, a break in work and early termination of work before the work permit expiry require written notification to the authorities within 7 days if they amount to 3 months.

The MFA proposes shortening this period to 1 month.

However, if, under the current provisions, the 3-month periods would expire after 30 June 2025, the current provisions shall apply.

The change was not consulted with ML. The bill prepared by ML maintains 3-month periods.

3. Tightening the rules for enrolment of foreigners to study in Poland, the conditions for approving universities for the purpose of admitting them to study and stricter control over the validity of temporary residence permits for the purpose of studying

4. Possibility for consulates to introduce a process for booking visa appointments via means of real-time remote communication (e.g. video-call)

For this purpose, the MFA reserves the right to process a number of data and information relating to the foreigner (applicant).

This option may apply to only some consulates. It may be launched on July 1, 2025 at the earliest, and will only apply to visa procedures that started on that day at the earliest.

This solution is intended to counteract the congestion of consulates and eliminate the practices of dishonest intermediaries offering paid assistance to foreigners in obtaining a visa appointment using automatic scripts that hack the current application registration system which relies on filling out online forms.

5. New grounds for refusal to initiate Single Permit proceedings

The MFA proposes to extend the list of residence titles that prevent the initiation of the Single Permit procedure. Including the following visas: for the purpose of participation in sports events, conducting cultural activities or participating in conferences, transit, air transit, medical treatment, or participation in a cultural or educational exchange programme, a humanitarian aid programme or a summer work programme.

In practice, obtaining a Single Permit for foreigners staying in Poland on the basis of these visas will no longer be possible.

The same applies to long-term visas and residence permits issued by other Schengen countries, unless the foreigner uses mobility while staying in Poland on their basis.

6. Obligation to notify the authorities in writing about loss of employment by a foreigner within 15 working days

Currently, obligation to notify authorities about loss of employment lies only with the Single Permit holder (i.e. the foreigner). The proposed changes will extend this obligation to the employer indicated in the Single Permit, too.

Violation of this obligation will constitute an offence punishable by a fine of no less than PLN 500. See also Sec. IV.

The obligation will apply to all cases of job loss that occur after 30 June 2025.

7. Excluding post-secondary school graduation certificates from the catalogue of evidence confirming knowledge of the Polish language for the purposes of EU Long-Term Residence Permit (EU LTRP)

The same applies to certificates of completion of a school with Polish as the lecture language abroad corresponding to a Polish post-secondary school.

It will no longer be possible to obtain EU LTRP on the basis of such documents.

However, this only applies to proceedings initiated on 1 July 2025 at the earliest. The existing provisions will apply to ongoing proceedings – initiated no later than 30 June 2025.



III. Fast track for entrepreneurs of significant importance to the national economy

Both bills also include to introduce the principle of priority in considering applications for work permits submitted by entities of significant importance to the national economy.

The visions of ML and MFA differ. Below we present a comparison of the solutions they propose.

FAST-TRACK for entities of significant importance to the national economy	
ML vision	MFA vision
1. Bill foresees a possibility of creating “a list of entrepreneurs conducting activities of significant importance to the national economy”.	1. Bill foresees a possibility of creating “a list of entrepreneurs conducting business activities in Poland of significant importance to the national economy”.
2. The list can include both Polish and foreign entities.	2. The list can include Polish entities only.
3. Creating the list will be optional.	3. Creating the list will be obligatory.
4. Authority responsible for the list - minister of economic development and technology.	4. Authority responsible for the list - minister of economic development and technology.
5. Legal form of the list – governmental regulation (act of law)	5. Legal form of the list – unspecified (not a legal act).
6. Decision on including a company on the list – subject to discretionary	6. Decision including a company on the list – <u>not</u> subject to discretionary

<p>assessment of the minister based on the following criteria:</p> <ol style="list-style-type: none"> 1) subject and importance of the entrepreneur's activity for the national economy; 2) nature, scope and value of investments planned or effected by the entrepreneur that may contribute to the development of the national economy in a global aspect; 3) needs of the entrepreneur in terms of allowing foreigners to work for him and make investments; 4) number of investments made by the entrepreneur that contributed to the development of the national economy or its individual sectors, their nature, scope and value. <p>7. Process of applying for inclusion on the list – not specified.</p> <p>8. Process for removing from the list – not specified.</p> <p>9. Benefits for companies included on the list:</p>	<p>assessment of the minister. Automatic consequence of receiving public support in accordance with separate legal acts, i.e.:</p> <ol style="list-style-type: none"> 1) entrepreneurs benefiting from support for investments of significant importance for the economy on the basis of regulations issued pursuant to Art. 19 section 2 of the Act of 6 December 2006 on the principles of conducting development policy, 2) entrepreneurs benefiting from support for new investments within the meaning of Art. 2 point 1 of the Act of 10 May 2018 on supporting new investments, 3) entrepreneurs benefiting from support for investment projects of strategic importance for the transition to an economy with net zero emissions within the meaning of Art. 53 section 2 of the Act of 7 July 2023 on the preparation and implementation of investments in the field of the National Data Processing Center. <p>7. Process of applying for inclusion on the list – N/A; inclusion automatic as consequence of meeting criteria of legal acts listed above.</p> <p>8. Process for removing from the list – obligatory upon expiry / revocation of decision on granting public support.</p> <p>9. Benefits for companies included on the list:</p>
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<p>1) priority processing of work permit applications submitted by companies included in the list.</p> <p>2) priority processing of visa applications for purpose of work at company included in the list.</p> <p>10. Possible limitations</p> <p>1) Quotas on available priority work permit applications</p> <p>2) Quotas of available priority visa applications taking into account the need to ensure efficient service for foreigners.</p> <p>11. Earliest possible entry into force – 1 January 2025.</p>	<p>(1) priority processing of work permit applications submitted by companies included in the list.</p> <p>(2) priority processing of visa applications for purpose of work at company included in the list</p> <p>(3) priority processing of residence permit applications for purpose of work at company included in the list.</p> <p>10. Possible limitations – N/A.</p> <p>11. Proposed entry into force – 1 July 2025.</p>
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IV. Tightening of criminal regulations regarding the employment of foreigners

Additionally, the ML and the MFA propose tightening criminal regulations regarding the employment of foreigners, in their processed bills.

The visions of both ministries differ. Below we present a comparison of the solutions they propose.

Offense	Current sanction (fine)	ML proposal	MFA proposal
Entrusting a foreigner with illegal work	1000 PLN – 30000 PLN	3000 PLN – 50000 PLN + the principle of a fine of no less than 3000 PLN for 1 foreigner	500 PLN – 30000 PLN + the principle of a fine of no less than 500 PLN for 1 foreigner

Illegal performance of work by a foreigner	20 PLN – 5000 PLN	1000 PLN – 5000 PLN	500 PLN – 5000 PLN
Causing a foreigner to perform illegal work as a result of misleading him, exploiting his mistake, taking advantage of his professional dependency or his inability to properly understand the action being taken	3000 PLN – 30000 PLN	6000 PLN – 50000 PLN + the principle of a fine of no less than 6000 PLN for 1 foreigner	3000 PLN – 30000 PLN + the principle of a fine of no less than 3000 PLN for 1 foreigner
Demanding financial benefits from a foreigner in exchange for taking steps to obtain a work permit or other document authorizing work	3000 PLN – 30000 PLN	6000 PLN – 50000 PLN + the principle of a fine of no less than 6000 PLN for 1 foreigner	3000 PLN – 30000 PLN + the principle of a fine of no less than 3000 PLN for 1 foreigner
Causing another person to entrust a foreigner with illegal work by means of an error, exploitation of an error or inability to properly understand the action being taken	3000 PLN – 30000 PLN	6000 PLN – 50000 PLN + the principle of a fine of no less than 6000 PLN for 1 foreigner	3000 PLN – 30000 PLN + the principle of a fine of no less than 3000 PLN for 1 foreigner
Breach by the employer of the obligation to conclude a contract with a foreigner in writing (where applicable)	200 PLN – 2000 PLN	1000 PLN – 3000 PLN	N/A
Breach by the employer of the obligation to provide the foreigner with a translation of the contract before signing it (if applicable)	200 PLN – 2000 PLN	1000 PLN – 3000 PLN	N/A
Breach by the employer of information obligations towards the authorities relevant to the content of the work permit	100 PLN – 5000 PLN	500 PLN – 5000 PLN	500 PLN – 5000 PLN
Breach by the employer of information obligations towards the authorities re. Special Permission	20 PLN – 5000 PLN	500 PLN – 5000 PLN	N/A

The ML also proposes to introduce penalties for employers for violating the obligation to:

- providing the authority that issued the work permit/Special Permission with a copy of the contract with the foreigner in Polish via the *praca.gov.* system before entrusting work to that foreigner,
- storing such a contract for the entire employment and for 2 years from the end of the calendar year in which the contract with the foreigner is terminated or expires (unless separate regulations provide for a longer period),
- in both cases the fine will be from PLN 1,000 to PLN 3,000.

The MFA proposes to introduce a penalty for the employer indicated in the Single Permit for violating the obligation to notify the authorities about the loss of a job by a foreigner. The penalty for this offense will be from PLN 500 to PLN 5,000.



V. Major changes proposed by the MIA

In parallel to the above-mentioned work, the MIA is working on a bill aimed at implementing the new Blue Card Directive (2021/1883) into Polish law. This bill is called in Polish *Projekt ustawy o zmianie ustawy o cudzoziemcach oraz niektórych innych ustaw.*

The Act is to enter into force 3 months after its publication in the Journal of Laws. It is not yet known when this will happen.

This bill includes, among others:

(A) for Polish Blue Card applicants:

1. A new definition of higher professional qualifications and qualifications obtained through professional experience

For the purposes of the Blue Card, higher professional qualifications will be either qualifications obtained as a result of completing higher education (no change to the current legal status) or as a result of professional experience.

The qualifications obtained as a result of professional experience will change. Namely:

- if a foreigner has worked in one of the professions on the list and has acquired experience in this profession within 7 years before applying for a Blue Card, 3 years of experience in this profession will suffice to get this permit, provided that it is necessary to perform the work specified in the contract.
- however, if the foreigner has not worked in a profession from the list, 5 years of professional experience required to perform the work specified in the contract will still be needed to get the Blue Card,
- the list will be specified in a separate regulation of the MIA (according to the bill, it covers mainly IT professions).

2. Shortening the period of validity of an employment contract, homework contract or civil law contract required to obtain a Blue Card from 1 year to 6 months

(B) for holders of Polish Blue Cards:

3. New notification obligations

Regarding the written obligation to notify the authorities within 15 working days of:

- change of the employer,
- ceasing to meet the requirements for issuing a Blue Card, and
- starting long-term mobility in another EU country.

However, these obligations will only apply to Blue Cards issued after the change in law. Current notification obligations will apply to holders of Blue Cards issued before the change.

4. Strengthening the durability of the Blue Card despite job loss

The Blue Card cannot be withdrawn if the period of unemployment does not exceed:

- 3 months – in the case of stay in Poland on this basis for less than 2 years (and the withdrawal decision cannot be issued earlier than after 3 months from the proceedings initiation), and
- 6 months – in the case of a stay in Poland on this basis for not less than 2 years (and the withdrawal decision cannot be issued earlier than after 6 months from the proceedings initiation).

5. Greater access the labour market and the right to conduct business

Blue Cards issued after the changes in regulations will not specify working conditions. Holders of such permits will have free access the labour market in Poland and can change working conditions during their validity.

In addition, Blue Card holders will be entitled to conduct business activities in Poland on the same terms as Polish citizens.



VI. Work on Poland's migration strategy for 2025-2030

At the same time, work is underway on a comprehensive migration strategy for Poland for 2025-2030.

The strategy was initially announced on 12 October 2024 by the Prime Minister Donald Tusk. The prime minister outlined the basic tenets of the strategy, including:

- reducing illegal immigration to a minimum,
- policy of accelerated returns of Poles from abroad,
- strengthening the integration of foreigners with Poland and Polish society,

and the most controversial:


- temporary territorial suspension of the right to asylum, and
- non-implementation of the EU Migration Pact, to the extent that it undermines Polish security.

On 15 October 2024, a preliminary version of the strategy was approved by the government. It is called in Polish: “Odzyskać kontrolę. Zapewnić bezpieczeństwo. Kompleksowa i odpowiedzialna strategia migracyjna Polski na lata 2025-2030”.

The content of the document has not yet been made public. However, from the available information, it does not appear to envisage revolutionary changes for employers and foreigners in terms of labour market access.

Work on the strategy is still in progress. After public consultations, its final version is expected to be prepared in December this year.

The strategy is to be base for bills of new legal acts, including a new act on foreigners. This is to take place in the period January-June 2025. The strategy may therefore have significance for the aforementioned bills and impact their final content.

 We are pleased to invite you to participate in a webinar: **Upcoming Changes in Polish Immigration Law**, organised by PCS Paruch Chruściel Schiffter Stępień Kanclerz | Littler.

- Calendar of immigration changes – high-level overview of what is likely to change and when.
- New rules on work permits – heavy restrictions for local hires, troublesome tweaks for temporary assignments.
- Official fast track processes for strategic investors – two competing ideas.
- New rules on EU Blue Card – belated implementation of the Recast EU Blue Card Directive.
- What is coming next for Ukrainian nationals – prospects for continued temporary protection in EU and in Poland.

Date: **24 October 2024, 16:00-16:45**, online.

Speakers: Karolina Schiffter, Tomasz Rogala.

Event in English. Participation is free. Register: [here](#).

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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