

Changes in immigration status

Changes in immigration status and purpose of stay – Poland's approach

Report produced by the National Contact Point
To the European Migration Network in Poland

This National Report was prepared by the Ministry of the Interior and Administration acting as the coordinator of the National Contact Point to the European Migration Network in Poland (PL NCP EMN). This Report follows the common specifications and methodology prepared by the European Migration Network (EMN).

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Introduction

This report about the changes in immigration status and purpose of stay was prepared by the National Contact Point of the European Migration Network in Poland (PL KPK EMN) within Polish membership in EMN¹ and constitutes contribution to the report of European Migration Network synthesising the knowledge on conditions that regulate the changes of status between different categories of third-country nationals in the EU Member States.²

The main contribution was provided by the Analysis and Migration Policy Department of the Ministry of the Interior and Administration in cooperation with the Office for Foreigners, the Labour Market Department of the Ministry of Family, Labour and Social Policy and departments of foreigners of the particular voivodship offices.

The purpose of this report is to provide an overview and analysis of the conditions in place in EU (Member) States that regulate the changes of status between different categories of third-country nationals as well as to examine how a change of status impacts on the rights of a third-country nationals. In many (Member) States, there is no systematic overview of whether (and which) status changes are possible. The aim of the EMN study is therefore to address this gap.

The National Contact Points to the European Migration Network, European Commission, policy-makers both at the national and European levels, national executive institutions and society – non-governmental organisations, research institutes and other interested entities constitute the group of recipients of this study.

The report follows the common specifications and methodologies adopted by the European Migration Network.

Methodology applied

The report is largely based on desk analysis of existing documents that were provided by public institutions responsible for shaping the policy in the scope of legalizing stay and changes in immigration status as well as on an analysis of current legal regulations in this regard.

In addition, responses to survey questions by voivodship offices, i.e. institutions responsible for examining the applications for legalisation of stay in Poland in the first instance, provided the basis for compiling a list of problems/challenges arising in the course of administrative proceedings related to the change of immigration status, encountered by foreigners and migration authorities.

The information included in the national report relate to the Polish legal framework as at 31 January 2016 in particular to the Act on Foreigners of 12th December 2013.³

The main source of numerical data presented in the report are statistics generated by the Office for Foreigners, Eurostat and the Ministry of Family, Labour and Social Policy. It is important to note that Poland collects and processes statistical data on changes in immigration status only to the extent required by Eurostat in line with the Regulation No 862/2007.⁴ Therefore, the Office for Foreigners cannot generate more specific national statistics, including those presenting information on changes in the purpose of stay of individual groups of foreigners (e.g. researchers, the self-employed, victims of human trafficking, etc.) or the number of persons who change the purpose of their stay numerous times (e.g. 2–3 times).

Scope of the study and definitions

The study includes those migrants holding an ‘authorisation / right to stay’ in Poland and situations where the change of status takes place inside the territory of Poland without the requirement for the individual to first return to their country of origin. The scope of the study covers:

¹ Polish KPK EMN consists currently of the representatives of the Ministry of the Interior and Administration (National Coordinator), the Ministry of Family, Labour and Social Policy, the Office for Foreigners, Border Guards and Central Statistical Office.

² The synthesis report is available at the website of the European Migration Network: www.emn.europa.eu.

³ Unified text, Journal of Laws of 2013 item 1650.

⁴ Regulation (EC) No 862/2007 of the European Parliament and of the Council of 11 July 2007 on Community statistics on migration and international protection and repealing Council Regulation (EEC) No 311/76 on the compilation of statistics on foreign workers.

- applicants for international protection,
- applicants for national types of protection (permit for tolerated stay and residence permit for humanitarian reasons),
- students,
- researchers,
- immigrants admitted for the purpose of remunerated activities (employed, self-employed, business owners, highly qualified workers under the Blue Card Directive, seasonal workers, intra-corporate transferees),
- immigrant investors,
- family members (excluding third-country nationals who are family members of EU citizens),
- D-type visa holders,
- victims of human trafficking who were issued residence permit under the Council Directive 2004/81/EC,⁵
- graduates from Polish universities.

The detailed definitions used in the report were included in the specifications to the European Migration Network study⁶.

⁵ Council Directive 2004/81/EC of 29 April 2004 on the residence permit issued to third-country nationals who are victims of trafficking in human beings or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities.

⁶ Specifications are available at the website of the European Migration Network at the address: www.emn.europa.eu.

1. Overview of national migration system in place regarding changes of status

Foreigners staying in Poland may apply for a temporary residence permit in line with the Act of 12 December 2013 on Foreigners.⁷ Depending on the situation of foreigners who want to live in Poland, the Act provides for various procedures for legalisation of stay. The required documents and stamp duties for granting individual permits vary and depend on the purpose of legalisation of stay by the foreigner.

In the majority of cases, regardless of the purpose of stay, the required documents include: confirmation of having a stable and regular source of income sufficient to cover maintenance costs, health insurance, the place of residence and documents to confirm the circumstances of applying for a permit. Therefore, for example, if the purpose of legalisation of stay is to conduct economic activity, the documents related to such activity are required, and if a foreigner applies for a permit to perform work, the documents related to his/her employment must be provided.

A foreigner staying in Poland legally (e.g. based on a residence permit granted for the purpose of studying) who wants to change his/her status (e.g. due to starting work after completion of studies), may – having met the specific requirements – change his/her stay status at any moment during the stay. The foreigner in general does not have an obligation to leave Poland, if he/she submits an application for a residence permit by the set deadline (on the last day of his/her legal stay at the latest). In line with a general principle, a foreigner should inform the voivode competent for the place of residence that the grounds which were the reason for granting the temporary residence permit ceased to exist and should submit a new application along with the set of documents evidencing the new circumstances.

According to data generated by Eurostat, in 2014 the change of purpose of stay was most often made by foreigners staying in Poland for education reasons (the majority of them changed the purpose of their stay for stay for remunerated activities) and for remuneration activities (see: Table 1 and 9).

Table 1. Change of immigration status, by reason (2010–2014)

	2010	2011	2012	2013	2014
Total	13,718	17,317	16,764	7,895	6,835
Change from: Education	2,710	2,349	7,392	2,109	1,975
Change from: Remunerated activities	428	10,222	3,094	2,644	1,859
Change from: Family	1,605	2,059	3,676	1,318	1,538
Change from: Other reasons	8,975	2,687	2,602	1,824	1,463

Source: Own study based on Eurostat data.

It is important to note that a similarly flexible approach to the possibility of changing the immigration status during the stay of a foreigner in Poland was stipulated in the previous Act on Foreigners (in force until 30 April 2014). The previously binding provisions provided for the refusal of the application for temporary residence permit when the circumstances suggested that the real purpose of the entry or stay on the territory of Republic of Poland is or would be different than that declared one. However, this prerequisite was hard to apply and was inconsistent with the daily life situations. For this reason, when drafting new immigration regulations this prerequisite was abolished.

The only existing restrictions result from the necessity to adjust Polish provisions to migration-related directives. However, according to them, a temporary residence permit cannot be granted to a foreigner:

- who hold a residence permit for tolerated stay⁸ or residence permit for humanitarian reasons⁹,
- who apply for international protection in Poland, and
- who were granted the protection under the provisions of Act of 13 June 2003 on granting protection to foreigners on the territory of the Republic of Poland.

⁷ Journal of Laws of 2013, item 1650, as amended.

⁸ Prerequisites for granting the residence permits for tolerated stay - see: table no. 2.

⁹ Prerequisites for granting the residence permits for humanitarian reasons – see: table no. 2.

The aim of the above mentioned provision is to separate clearly the institutions regulated under the Act on Foreigners from the forms of stay legalization with regard to protection of foreigners on the territory of Poland, which are granted for indefinite period of time and might be withdrawn only in shortlisted cases. The provision allows also to avoid situations in which a foreigner would have two residence permits, one granted due to granting protection and the other one granted under the Act on Foreigners.

In order to change their residence status, those foreigners have to leave Poland and return with a visa.¹⁰ The same rule applies to foreigners holding a permit for the purpose of highly qualified employment, if they want to legalise their stay based on a temporary residence permit for research purposes.

It is also worth emphasizing that in numerous cases Polish legal regulations allow foreigners to exercise a certain scope of rights before they are granted a new residence permit, e.g. foreigners holding a temporary residence permit granted for the purpose of full-time studies may work during their studies without having to change their residence permit. Moreover, they are exempt from the obligation to have a work permit.

The issues related to the possibility to change the purpose of stay of foreigners have not yet been subject of an extensive public debate or discussion among experts dealing with migration to Poland. This topic was touched up to a small extent only in the context of foreign students and the scope of economic activity that they are allowed to conduct after completing their studies, as well as the change of legal grounds for stay, and in the context of graduates of Polish universities who seek employment in Poland. The discussions led to necessary amendments to the law.

2. Overview of admission criteria

This section aims to provide an overview of the initial admission criteria or the criteria for issuing a particular authorisation to stay/residence permit applied by Poland in order admit all categories covered by the scope of the study.

Table 2. Admission criteria for issuing a particular residence permit

Legalisation basis	National definition	Admission criteria
Family	<p>Temporary residence permit for:</p> <p>1. foreigner – family members of a foreigner residing in Poland on the basis of specific types of residence permits¹¹, including:</p> <p>a) spouse (the marriage must be acknowledged under Polish law);</p> <p>b) minor children (i.e. those under the age of 18) - not only biological children, but also adopted children or other children dependent on the foreigner and under his parental authority (e.g. a spouse's child from a previous relationship);</p> <p>c) spouse or minor child, as referred to in point a) and b), if the best interests of the foreigner require it, in the event of:</p> <p style="padding-left: 20px;">- divorce, separation with the foreigner</p>	<p>Foreigner – family member has to:</p> <ul style="list-style-type: none"> • have a health insurance in Poland, • have a stable and regular source of income sufficient to cover the living costs of the applicant foreigner and his dependant family members,¹² • have a place of residence in Poland, • present documents confirming the degree of relationship or kinship (i.e. marriage certificate, child birth certificate) or eventually consent of persons who exercise parental authority over minor child who applies for the residence permit, • present documents confirming the right of the foreigner with whom the other foreigner is to be reunited to reside in Poland.

¹⁰ An exception is the situation when a foreigner is a victim of human trafficking and applies for legalisation of stay for that reason.

¹¹ Permanent residence permit, residence permit or a long-term EU resident permit, temporary residence permit on the basis of which he/she resides in Poland for at least 2 years (the last residence permit being issued for a stay of not less than one year), temporary residence permit issued for the purpose of conducting scientific research, temporary residence permit in order to perform highly qualified employment, refugee status, subsidiary protection, or a resident permit for humanitarian reasons.

¹² The requirement of having a stable and regular source of income is also met when the foreigner's subsistence expenses are covered by a family member responsible for supporting the foreigner and residing on the territory of the Republic of Poland.

Legalisation basis	National definition	Admission criteria
	<p>whom they reunited in Poland, or the foreigner's death,</p> <ul style="list-style-type: none"> - death of a minor child's parent, with whom the child was reunited in Poland 	<p>Also a foreigner living in Poland with whom a family reunites must present proof of a stable source of income sufficient to cover the costs of living for themselves and the family members, health insurance and a place of residence.</p> <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (including among others: foreigner's data are entered into the register of foreigners whose residence in Poland is undesirable, or his/her data are in the Schengen Information System for the purposes of refusing entry, or it is necessary for the defence or national security or the protection of public safety and order, or he/she does not consent to compulsory treatment in specific cases, or marriage was concluded in order to circumvent immigration regulations).</p>
Education	<p>Temporary residence permit for:</p> <ol style="list-style-type: none"> 1. foreigner who intends to start or continue a full-time studies (1st, 2nd or integrated Master's degree studies programme) or 3rd degree (doctoral) studies programme 2. foreigner who intends to take up a preparatory course to start studies listed in point 1. in Polish 	<p>Foreigner who resides In Poland has to:</p> <ul style="list-style-type: none"> • have a health insurance in Poland, • have a stable and regular source of income sufficient to cover his/her living costs and his dependant family members, • have a place of residence in Poland, • present documents confirming the degree of relationship or kinship (child birth certificate), • present documents confirming the possession of adequate residence permit or visa. <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (including among others: foreigner's data are entered into the register of foreigners whose residence in Poland is undesirable, or his/her data are in the Schengen Information System for the purposes of refusing entry, or it is necessary for the defence or national security or the protection of public safety and order, or he/she is in arrears with payment of taxes, or he/she does not consent to compulsory treatment in specific cases).</p>

Legalisation basis	National definition	Admission criteria
		<ul style="list-style-type: none"> health insurance in Poland. <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (including among others: foreigner's data are entered into the register of foreigners whose residence in Poland is undesirable, or his/her data are in the Schengen Information System for the purposes of refusing entry, or it is necessary for the defence or national security or the protection of public safety and order, or he/she does not consent to compulsory treatment in specific cases).</p>
	<p>3. foreigner who intends to take up or continue education (refers to people taking up education in other forms than full-time studies, doctoral studies or preparatory course to start those studies in Polish, i.e. part-time studies, languages courses)</p>	<p>Foreigner has to have:</p> <ul style="list-style-type: none"> document confirming the enrollment or the continuation of education, sufficient financial means to cover living costs in Poland, costs of the return trip to the country of origin and costs of education, health insurance in Poland, place of residence in Poland. <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (see: residence permit for minor child of a foreigner who resides in Poland on the basis of a national visa or a temporary residence permit, if the child was born in Poland during the term of validity of the visa or the residence permit).</p>
	<p>4. foreigner who intends take up or continue vocation training</p>	<p>Foreigner has to have:</p> <ul style="list-style-type: none"> document confirming the enrollment or the continuation of vocational training, stable and regular source of income sufficient to cover the living costs of the applicant foreigner and his dependant family members, health insurance in Poland, place of residence in Poland. <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (see: residence permit for minor child of a foreigner who resides in Poland on the basis of a national visa or a temporary residence permit, if the child was born in Poland during the term of validity of the visa or the residence permit).</p>

Legalisation basis	National definition	Admission criteria
Graduation from Polish university	Graduate from Polish university seeking employment	<p>Foreigner shall have:</p> <ul style="list-style-type: none"> • health insurance in Poland, • stable and regular source of income sufficient to cover the living costs of the applicant foreigner and his dependant family members, • place of residence in Poland. <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (see: residence permit for minor child of a foreigner who resides in Poland on the basis of a national visa or a temporary residence permit, if the child was born in Poland during the term of validity of the visa or the residence permit).</p>
Research	<p>Temporary residence permit for:</p> <ol style="list-style-type: none"> 1. scientist – foreigner who holds at least professional title (corresponding to Polish Master’s degree or equivalent which enables the access at least to postgraduate studies) and conducts scientific research or development work pursuant to an agreement on admitting him/her to a research institution (approved by the minister competent for science on the basis of decision) in order to conduct a research project, 2. scientist – foreigner who holds a residence permit (as referred to Article 1(2)(a) of the Council Regulation no. 1030/2002, with an annotation “researcher”), issue by other EU member state, if the hosting agreement for the purposes of carrying out research project concluded with the relevant research institution of this state envisages conducting scientific research or development works also on the territory of Poland 	<p>Foreigner has to present:</p> <ul style="list-style-type: none"> • agreement concluded with a Polish research institution concerning admission in order to carry out a research project, • written statement of the research institution confirming that the institution commits itself to cover the costs of the scientist’s stay in Poland and the costs of execution of a decision obliging the foreigner to return (which may be issued in connection with the illegal stay of the foreigner) covered from public funds within 6 months of the date of expiry of the agreement, • sufficient financial means to cover living costs in Poland and the costs of the return trip to the country of origin, • health insurance in Poland. <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (see: residence permit for foreigner who intends to start or continue a studies).</p>
Blue Card	Temporary residence permit for a foreigner with qualifications confirmed by higher professional qualifications¹³ necessary for performing work in the profession requiring higher qualifications	<p>In order to grant EU Blue Card the following conditions should be met:</p> <ol style="list-style-type: none"> 1) foreigner: <ul style="list-style-type: none"> • has concluded a contract for a period of at least 1 year¹⁴, • has higher professional qualifications,

¹³ Higher professional qualifications mean qualifications obtained as a result of graduation from a university or having at least 5 years of professional experience.

¹⁴ An employment agreement, a tolling agreement or a civil law agreement under which he/she performs work, renders services or is in an employment relation.

Legalisation basis	National definition	Admission criteria
		<ul style="list-style-type: none"> • meets the qualification requirements and other conditions if they intend to take up work in a regulated profession, • has obtained the consent of the competent authority to work in a certain position, in a specific profession or to conduct other activity if the obligation to obtain such consent prior to the conclusion of the agreement is required by law, • has health insurance in Poland; <p>2) the entity entrusting work to the foreigner is unable to satisfy its staffing needs within the local labour market (condition not required to be fulfilled in specific cases¹⁵),</p> <p>3) gross annual salary is not lower than the 150% of the average monthly salary in the previous calendar year.</p> <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (see: residence permit for foreigner who intends to start or continue a studies).</p>
Highly qualified work	Poland does not have a national scheme (separate from the EU Blue Card scheme) for highly-skilled workers	-
Work	Foreigner who intend to perform work in Poland	<p>Temporary residence and work permit is granted if all the following conditions are fulfilled:</p> <p>1) foreigner has:</p> <ul style="list-style-type: none"> • health insurance in Poland, • stable and regular source of income sufficient to cover the living costs of the applicant foreigner and his dependant family members, • employment contract, mandate contract or task-specific contract, • place of residence in Poland; <p>2) the entity entrusting work is unable to satisfy its staffing needs at the local labour market (condition not required to be fulfilled in specific cases¹⁶),</p>

¹⁵ Meeting the condition is not required if:

- the profession performed or entrusted work is within list of occupations and kinds of work specified by each voivode in relation to which issuing the work permit does not require taking into account the above information of the powiat starost (Article 10 (4), item 1 of the Act of 20 April 2004 on Promotion of Employment and Labour Market Institutions), or
- the foreigner, immediately before making the application had work permit or temporary residence and work permit for the same employer on the same position or
- the foreigner complies with conditions defined in provisions published on the basis of Article 90 (5) of Act of 20 April 2004 on the Promotion of Employment and Labour Market Institutions or
- the foreigner complies with conditions of exemption from the obligation to have the work permit as specified in separate regulations or
- the foreigner has already been legally employed in Poland for the period of 2 years on the basis of temporary residence permit in order to perform highly qualified employment.

¹⁶ Meeting the condition is not required if:

Legalisation basis	National definition	Admission criteria
		<p>3) the salary specified in the agreement is not lower than the salary of employees performing work of comparable type on a comparable position within the same working time,</p> <p>4) documents confirming that the entity entrusting work to the foreigner fulfill the relevant conditions - if work performance on the territory of the Republic of Poland consists in performing by the foreigner work in management board of a legal entity subject to registration in the register of entrepreneurs shares or stocks of which the foreigner does not possess.</p> <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (see: residence permit for minor child of a foreigner who resides in Poland on the basis of a national visa or a temporary residence permit, if the child was born in Poland during the term of validity of the visa or the residence permit).</p>
Seasonal work	<p>Poland does not have a national scheme for admitting seasonal workers. They can apply for a residence permit under the same term and conditions as foreigners performing work in Poland (see: „Work” category)</p> <p>Poland has not yet transposed the so-called seasonal workers directive.</p>	-
Self-employment	<p>Foreigner who intends to carry out business activity in Poland on the basis of the regulations in that matter.</p> <p>In Polish law there are no specific regulations addressed to self-employed foreigners. Foreigners who run individual business activity (sole proprietorship) are considered as foreigners who run the business activity.¹⁷</p>	<p>The following conditions have to be fulfilled:</p> <p>1) foreigner:</p> <ul style="list-style-type: none"> • has health insurance in Poland, • has a stable and regular source of income sufficient to cover the living costs of the applicant foreigner and his

- the profession performed or entrusted work is within list of occupations and kinds of work specified by each voivode in relation to which issuing the work permit does not require taking into account the above information of the poviast starost (Article 10 (4), item 1 of the Act of 20 April 2004 on Promotion of Employment and Labour Market Institutions), or
- the foreigner, immediately before making the application had work permit or temporary residence and work permit for the same employer on the same position or
- the foreigner complies with conditions defined in provisions published on the basis of Article 90 (5) of Act of 20 April 2004 on the Promotion of Employment and Labour Market Institutions or
- the foreigner complies with conditions of exemption from the obligation to have the work permit as specified in separate regulations, or
- work consists in performing by the foreigner work in the management of joint-stock company or limited liability company, shares or stocks of which the foreigner does not have.

¹⁷ The residence of the basis of this permit may be legalised primarily by the foreigners who:

- run the business activity in a form of limited partnership, limited – stock company, joint stock company and limited liability company, or
- took over or purchased the shares or stock in the joint stock company or limited liability company.

In fact also the foreigners running the business activity in other forms, including in a form of unlimited company, partnership or in a form of individual form (so running the business activity under the same term and conditions as Polish citizens) may apply for the above mentioned residence permit, however, it concerns only two groups of foreigners:

- citizens of the USA (the possibility to run business activity according to the rules binding for Polish citizens arises from the provisions of bilateral international agreement),
- foreigners who continue running business activity registered previously on the basis of the entry to CEIDG (or in a form of individual business activity) and these are the persons who stayed in Poland on the basis temporary residence permit for the purpose of studies (who started running individual business

Legalisation basis	National definition	Admission criteria
Owning business	Foreigner who intends to carry out business activity in Poland on the basis of the regulations in that matter.	<p>dependant family members,</p> <ul style="list-style-type: none"> has an authorisation of the competent authority to hold a given position or pursue a given profession, (where the obligation to obtain it stems from separate regulations), has a place of residence in Poland;
Investment	<p>Foreigner who intends to carry out business activity in Poland on the basis of the regulations in that matter.</p> <p>In Polish law there are no specific regulations addressed to investors. Foreigner who is an investor is considered as a foreigner who runs the business activity.</p>	<p>2) entity conducting business activity:</p> <ul style="list-style-type: none"> fulfills economic criteria (adequate level of generated income) or economic and social ones (employs at least 2 employees who belong to specific groups), or proves that it has financial means sufficient to meet in the future these conditions or is taking efforts to meet these conditions in the future, in particular ones contributing to the growth of investment, technology transfer, innovations or job creation. <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (see: residence permit for minor child of a foreigner who resides in Poland on the basis of a national visa or a temporary residence permit, if the child was born in Poland during the term of validity of the visa or the residence permit).</p>
Intra-corporate transfer	<p>Poland has not yet transposed the so-called intra-corporate transferees directive.</p> <p>National regulations refer to foreigners delegated on the territory of Poland by a foreign employer.</p>	<p>Foreigner shall have:</p> <ul style="list-style-type: none"> a work permit (if required), health insurance in Poland, stable and regular source of income sufficient to cover the living costs of the applicant foreigner and his dependant family members, place of residence in Poland. <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (see: residence permit for minor child of a foreigner who resides in Poland on the basis of a national visa or a temporary residence permit, if the child was born in Poland during the term of validity of the visa or the residence permit).</p>
D-type visa	Foreigner holding a national visa which entitles him/her to enter and reside in Poland for a total of more than 90 days during one or more visits	<p>Foreigner shall have:</p> <ul style="list-style-type: none"> valid travel document fulfilling specific criteria, adequate and valid travel health insurance, supporting documents confirming the purpose of his/her

activity while studying and intend to stay in Poland after graduation from full-time studies) or family reunification who continue their stay in a new purpose, i.e. continuation of business activity).

Legalisation basis	National definition	Admission criteria
		<p>entry,</p> <ul style="list-style-type: none"> • sufficient means for entry, stay and return or a possibility to obtain such means lawfully. <p>Moreover, during the proceedings there can be no grounds for refusal (including among others: foreigner's data are entered into the register of foreigners whose residence in Poland is undesirable, or his/her data are in the Schengen Information System for the purposes of refusing entry, or it is necessary for the defence or national security or the protection of public safety and order, or his/her travel document does not meet specific criteria).</p>
Application for granting international protection	Foreigners applying for international protection	<p>Foreigner is granted <u>refugee status</u> if due to justified fear of persecution in his/her home country for reasons of: race, religion, nationality, political opinion, or membership of a particular social group, he/she cannot or do not want to be protected by this country.</p> <p>Foreigner will be granted <u>subsidiary protection</u> if he/she does not meet the criteria for refugee status, and returning to his/her country of origin may put him/her at a real risk of serious harm in the form of:</p> <ul style="list-style-type: none"> • a death sentence or execution, or • torture, inhumane or humiliating treatment or punishment, or • a serious and individual threat to his/her life or health resulting from widespread use of violence against civilians during an international or domestic armed conflict. <p>- and due to the above risk he/she cannot or do not want to be protected by the home country.</p> <p>Moreover, during the asylum proceedings there can be no grounds for refusal (including above all: committed a specific crime, is guilty of acts contrary to the purposes and principles of the United Nations, pose a threat to state security or to the safety of the society).</p> <p>After 30 days from the day a foreigner received a negative decision, he/she may submit to the Border Guards an application for permit for tolerated stay or residence permit for humanitarian reasons.</p>
Human trafficking	Foreigner who is a victim of human trafficking as defined by the Penal Code¹⁸	Foreigner has to fulfill all the following conditions:

¹⁸ According to Article 115 (22) of Penal Code: trafficking in persons shall mean the recruitment, transportation, transfer, harbouring or receipt of persons by means of:

- 1) violence or unlawful threat,
- 2) abduction,
- 3) deception,
- 4) misleading, the exploitation of a person's mistake or their inability to properly comprehend the action being undertaken,
- 5) the abuse of a relation of dependence, taking advantage of a critical situation or state of helplessness,
- 6) giving or receiving of payments or benefits or its promise to achieve the consent of a person having control over another person

Legalisation basis	National definition	Admission criteria
		<ul style="list-style-type: none"> • resides in Poland, • established cooperation with an authority competent for conducting the proceedings in the case concerning a crime, • renounced contacts with people suspected to have committed a crime. <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (including among others: it is necessary for the defence or national security or the protection of public safety and order).</p>
<p>National forms of protection (refers to people who, due to important reasons, may not be ordered to leave)</p>	<p>1. residence permit for humanitarian reasons</p> <p>2. permits for tolerated stay</p>	<p>Residence permit for humanitarian reasons is granted to a foreigner if his/her return obligation:</p> <ol style="list-style-type: none"> 1) would only be possible to a country where, within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950: <ul style="list-style-type: none"> • his/her right to life, freedom and personal safety would be threatened, or • he/she could be tortured or be treated in an inhumane or humiliating manner, or punished, or • he/she could be forced to work, or • he/she could be deprived of the right to a proper court trial, or be punished without a legal basis, 2) would violate his/her right to family life or private life within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950; 3) would violate his/her child's rights, as defined in the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989, to an extent threatening his/her mental and physical development. <p>Permit for tolerated stay is granted to a foreigner if his/her return obligation:</p> <ol style="list-style-type: none"> 1) can be made solely to the state in which within the meaning of the Convention for the Protection of Human Right and Fundamental Freedoms drawn up in Rome on 4 November 1950: <ul style="list-style-type: none"> • his/her right to life, freedom and personal security might be threatened, or

– for the purpose of exploitation, even with the person's consent. Exploitation shall include, at a minimum, the exploitation of the prostitution of others, pornography, or other forms of sexual exploitation, forced labour or services, beggary, slavery or practices similar to slavery, servitude or the removal of cells, tissues, or organs against the regulations of the article. Should the perpetrator's behaviour concern a minor, it shall be considered "trafficking in persons" even if this does not involve any of the means set forth in points 1-6 of this article.

Legalisation basis	National definition	Admission criteria
		<ul style="list-style-type: none"> • he/she could be subject to torture or inhumane or degrading treatment or punishment, or • he/she could be forced to work, or • he/she could be deprived of the right to fair trial or be punished without a legal basis, or <p>- in case when there are circumstances to deny him/her the residence permit for humanitarian reasons¹⁹, or</p> <p>2) is not feasible for reasons beyond the control of the authority responsible for the forced execution of the decision on imposing the return obligation and beyond the control of the foreigner, or</p> <p>3) can be effected only to a country expulsion to which is inadmissible under a ruling of a court of law or because of a decision of the Minister of Justice on the refusal to expel a foreigner.</p> <p>Moreover, in case of residence permit for humanitarian reasons there can be no grounds for refusal.</p>
Other	Foreigner proved that there are other circumstances justifying his/her stay in Poland for a period longer than 3 months	<p>Foreigner shall have:</p> <ul style="list-style-type: none"> • health insurance in Poland, • stable and regular source of income sufficient to cover the living costs of the applicant foreigner and his dependant family members, • place of residence in Poland. <p>Moreover, the circumstances, on the basis of which a foreigner is willing to legalise his/her stay, have to justify his/her residence in Poland for a period exceeding 3 months, and during the proceedings there can be no grounds for refusal (see: residence permit for minor child of a foreigner who resides in Poland on the basis of a national visa or a temporary residence permit, if the child was born in Poland during the term of validity of the visa or the residence permit).</p>

3. National legal framework on change of status whilst remaining on the territory of Poland

3.1. Legal possibilities to changes status

The change of residence status in Poland is possible with respect to an overwhelming majority of permits (see: Table 3). The criteria of granting a temporary residence permit are always the same, regardless of whether the foreigner applies for a permit for the first time (after staying in Poland on the basis of a visa) or whether the foreigner changes the

¹⁹ If:

- he/she has committed a crime against peace, a war crime or a crime against humanity within the meaning of the international law, or
- he/she is guilty of acts contrary to the purposes and principles of the United Nations set out in the Preamble and Article 1 and 2 of the Charter of the United Nations, or
- he/she has committed a crime within the territory of the Republic of Poland or committed an act outside this territory that is a crime under the Polish law, or
- represents a threat to national security or defence, the protection of public order and safety, or
- he/she has instigated or otherwise participated in the commission of crimes or offenses referred to above.

residence status (after staying in Poland on the basis of a temporary residence permit, e.g. from a permit granted for the purpose of studies to a permit granted for the purpose of performing work in Poland).

In order to change the status, the foreigner must each time meet all requirements for stay. Furthermore, there are no facilitated procedures available, such as possibility to lodge an application via Internet, simplified and shorter permit granting procedure²⁰, reduced stamp duty, extended permit validity period or lesser scope of required documents, no need to demonstrate having sufficient financial resources, etc.

Table 3. Legal possibility to change immigration status from within Poland

From \ Into	Family	Education	Research	Blue Card	Work	Self-employment	Owning company	Intra-corporate transfer	Investments	D-type visa ²¹	Application for granting international protection	Human trafficking	National forms of protection	Graduation from Polish university
Family		Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Education	Yes		Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Research	Yes	Yes		No	Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Blue Card	Yes	Yes	Yes		Yes	Yes	Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Work	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Tak	No	Yes	Yes	Yes	Yes
Self-employment	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	No	Yes	Yes	Yes	Yes
Owning company	Yes	Yes	Yes	Yes	Yes ²²	Yes		Yes	Yes	No	Yes	Yes	Yes	Yes
Intra-corporate transfer	Yes	Yes	Yes	No ²³	Yes	Yes	Yes		Yes	No	Yes	Yes	Yes	Yes
Investments	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		No	Yes	Yes	Yes	Yes
D-type visa	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes		Yes	Yes	Yes	Yes
Application for granting international protection	No	No	No	No	No	No	No	No	No	No		Yes	No	No
Human trafficking	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	No	Yes		Yes	Yes
National forms of protection	No	No	No	No	No	No	No	No	No	No	Yes	Yes		No
Graduation from Polish university	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Yes	Nie	Yes	Yes	Yes	

3.2. Rights granted to different categories of third-country nationals after the change of immigration status

The section below describes the scope of rights guaranteed to individual groups of foreigners, covered by this study, in such areas as employment, family reunification, education, mobility, political rights, legal assistance, social insurance, duration of stay and stamp duty charged for granting a residence permit. The impact on the change of immigration status on the scope of those rights was also analysed (see: Table 4).

²⁰ According to law, the duration of a procedure does not differ depending on a migrant group.

²¹ According to the Act of Foreigners, prolongation of a visa in Poland is generally not possible. There is therefore no possibility to receive visa while residing in Poland on the basis of residence permit.

²² Foreigner who carries out business activity can not apply for a temporary residence and work permit. It is however possible to first apply for a residence permit for the purpose of running business activity and once he/she discontinues it he/she can apply for a temporary residence and work permit. (Article 116 (3) of Act on Foreigners). The same applies to „self-employment“ and „investments“ category.

²³ It only refers to cases when he/she is an employee at the company running business activity in other EU state and he/she is delegated temporarily to perform services in Poland.

1. EMPLOYMENT

According to a general rule, a foreigner who intend to work in Poland is obliged to get a work permit unless he/she belongs to a category of persons exempt from this requirement.

Foreigners, covered by the scope of this study, who can perform work in Poland without the work permit are the following:

- family members of a foreigner residing in Poland on the basis of specific types of residence permits who hold residence permit for family reunification (including foreigners who in the event of particular family situation i.e. death of a spouse, divorce or separation, retained the right to reside in Poland on the basis of the temporary residence permit),
- students of full-time studies or doctoral studies in Poland residing on the basis of a residence permit issued for the purpose of taking up or continuing studies – for the entire duration of the residence,
- researchers residing in Poland on the basis of the residence permit for the purpose of conducting research (both granted by Poland and other EU state) - for the entire duration of the residence,
- holders of a residence permit for the purpose of conducting business activity – if in the limited liability company or stock company (which they created or the shares/stocks of which they took over/purchased) they perform work by holding the position of a member of the management board for a total period exceeding 6 months within a period of 12 subsequent months,
- holders of national visa issued for the purpose of conducting research or development,
- students of full-time tertiary studies and full-time doctoral studies in Poland residing on the basis of a visa,
- applicants for international protection or spouse on behalf of whom the application was submitted, if the application was not examined during 6 months and the delay does not result from the fault of the applicant,
- victims of human trafficking who were granted temporary residence permit,
- foreigners granted residence permits for tolerated stay,
- foreigners granted residence permit for humanitarian reasons,
- holders of a residence permit granted to graduates of Polish universities seeking employment – if they graduated from full-time studies.

As a rule, a work permit is not required from foreigners applying for a temporary residence and work permit and for a temporary residence permit for the purpose of conducting economic activity.²⁴ The legalisation procedure analyses only the reasons for admission to the labour market.

Foreigners obliged to obtain work permit are the following:

- holders of a residence permit for the purpose of education or vocation training,
- holders of a temporary residence permit for the purposes of performing work by a foreigner seconded by a foreign employer,
- foreigners residing in Poland on the basis of a national visa issued to perform work, conduct business activity (if in the limited liability company or stock company - which they created or the shares/stocks of which they took

²⁴ They may need a work permit, if they perform work other than the one specified in the single permit.

over/purchased - they perform work by holding the position of a member of the management board for a total period not exceeding 6 months within a period of 12 subsequent months), vocation training, education,²⁵

- holders of a residence permit granted to graduates of Polish universities seeking employment – if they graduated from part-time studies.

However, all the people listed above, in certain cases, may be exempted from the obligation to obtain a work permit or they may obtain it through simplified procedure (without the labor market test and/or without the obligation to get a remuneration at a certain level²⁶).

These exemptions are both subjective in nature (it relates primarily to the citizenship of the given foreigner²⁷, the fact of holding a valid Card of the Pole, graduating from Polish upper-secondary school or full-time studies, being a family member (spouse or descendant) of selected group of foreigners,²⁸ sufficiently long residence in Poland or performing work for the same employer and at the same position) and objective in nature (they relate to the type of work performed i.e. foreign language teachers, dentists, so-called deficit professions defined by the voivodes, employees performing work in nursing and care, domestic help in households, athletes and sports coaches, clergymen, academics).

The issue of access to the labour market of foreigners residing in Poland on the basis of a residence permit granted for the purpose of highly qualified employment requires a separate consideration. Although these people can work in Poland without a work permit, during the procedure for granting a permit there is an obligation to carry out a labor market test. Also in this case there are many exceptions to this requirement (see footnote no. 14).

2. FAMILY REUNIFICATION

Foreigners who are entitled to family reunification are the foreigners who:

1. has been residing in Poland for the period of at least 2 years on the basis of temporary residence permit and the last residence permit was issued for a stay of not less than one year,
2. hold a residence permit for the purpose of conducting research (foreigner is entitled to reunite with his/her family once he/she is granted the residence permit, so there is no obligation to reside in Poland for the certain period of time as in case of the residence permit mentioned in point no. 1),
3. hold a residence permit granted for the purpose of highly qualified employment (foreigner is entitled to reunite with his/her family once he/she is granted the residence permit, so there is no obligation to reside in Poland for the certain period of time as in case of the residence permit mentioned in point no. 1),
4. were granted resident permit for humanitarian reasons (foreigner is entitled to reunite with his/her family once he/she is granted the residence permit, so there is no obligation to reside in Poland for the certain period of time as in case of the residence permit mentioned in point no. 1).

The other foreigners covered by the scope of this study are not entitled to reunite with their families only because they are authorized to stay in Poland. Family members of those foreigners may therefore apply for a visa/residence permit in Poland under general terms and conditions.

Although foreigners seeking international protection in Poland may not apply for a family reunification within the meaning of the Act on Foreigners and its regulations on legalization of stay, a foreigner who submits an application for

²⁵ Foreigners staying in Poland on the basis of a national visa issued for tourist purposes, participating in the asylum granting proceedings, being subject to temporary protection, arriving due to humanitarian reasons, due to public interest or international obligations, do not have the right to work. Such foreigners may, in line with general rules, apply for a temporary residence and work permit or receive a work permit and a visa for the purpose of performing work.

²⁶ The condition applies to granting work permits in order to exclude any social dumping.

²⁷ It concerns mainly citizens of Armenia, Belarus, Georgia, Moldova, Russia and Ukraine.

²⁸ This applies mainly to family members (spouses and descendants aged up to 21 or being financially dependent on the foreigner, who hold a temporary residence permit), foreigners holding a permanent residence permit, long-term EU resident permit, refugee status, subsidiary protection, tolerated and humanitarian stay permit, temporary residence permit for the purpose of studies, research, or being victims of human trafficking.

international protection may also submit this application on behalf of accompanying persons and dependent on him/her for economic reasons, health reasons or because of their age, including:

- spouse (marriage must be acknowledged under Polish law),
- minor children (those under the age of 18) of the applicant or his/her spouse, including an adopted unmarried children.

3. EDUCATION

Cudzoziemcy korzystają z nauki i opieki we wszystkich typach publicznych przedszkoli i szkół od 7 lat²⁹ do ukończenia 18. roku życia lub ukończenia szkoły ponadgimnazjalnej na warunkach dotyczących obywateli polskich. Oznacza to, iż każde dziecko w wieku od 7 do 18 lat przebywające w Polsce musi chodzić do szkoły pod rygorem sankcji wobec rodziców. Obowiązek ten dotyczy także dzieci niemających obywatelstwa polskiego bez względu na status migracyjny ich rodziców w Polsce.

Foreigners – third-country citizens – who may benefit from educational services provided by public schools for adults, public post-secondary schools, public art schools, public establishments, public teacher training facilities and public colleges for social services employees as well as continuing education in form of qualifying vocational courses under the same terms and conditions which apply to Polish citizens (free so charge)³⁰ are the following:

- family members of a foreigner residing in Poland on the basis of specific types of residence permits who hold residence permit for family reunification (including foreigners who in the event of particular family situation i.e. death of a spouse, divorce or separation, retained the right to reside in Poland on the basis of the temporary residence permit),
- students of full-time studies or doctoral studies in Poland residing on the basis of a residence permit issued for the purpose of taking up or continuing studies – for the entire duration of the residence,
- researchers residing in Poland on the basis of the residence permit for the purpose of conducting research (both granted by Poland and other EU state) - for the entire duration of the residence,
- holders of a residence permit granted for the purpose of highly qualified employment,
- holders of a temporary residence and work permit,
- holders of a residence permit for the purpose of conducting business activity,

²⁹ As for 1st September 2016, upon a parents request and provided that certain conditions are met, a child will be able to attend elementary school already at the age of 6.

³⁰ Pursuant to Article 94a(2) of the Act of 7 September 1991 on the education system, the following foreigners-third-country nationals may pursue education at public schools for adults, public post-secondary schools, public art schools, public establishments, public teacher training centres and public social services workers education centres, as well as participate in continuous learning in the form of qualification vocational courses:

- family members of EU/EEA citizens holding the residence or permanent residence permit;
- persons of Polish origin, within the meaning of the regulations on repatriation;
- persons who were granted a permanent residence permit;
- persons who have a valid Card of the Pole;
- persons for whom such entitlements result from international agreements;
- persons who were granted refugee status and their family members;
- persons holding a permit for tolerated stay;
- persons who were granted a permit for stay for humanitarian reasons and their family members;
- persons who were granted subsidiary protection and their family members;
- persons subject to temporary protection on the territory of the Republic of Poland;
- persons who were granted a long-term EU resident permit on the territory of the Republic of Poland;
- persons who were granted a temporary residence permit in the Republic of Poland for the purpose of highly qualified employment, reunification with the family, due to being a victim of human trafficking, who have a long-term EU residence permit granted by another European Union Member State and who were granted a temporary residence permit in Poland on this basis and their family members;
- family members of persons applying for international protection;
- persons holding a residence permit with an “access to the labour market” annotation (in the case of a permit granted to a foreigner who has the right to work or is exempt from the obligation to hold a work permit in Poland), a Schengen visa or a national visa issued for the purpose of performing work on the territory of the Republic of Poland.

- victims of human trafficking who were granted temporary residence permit,
- holders of a residence permit granted to graduates of Polish universities seeking employment – if they graduated from full-time studies,
- holders of national work visa,
- foreigners granted residence permits for tolerated stay,
- foreigners granted residence permit for humanitarian reasons.

The other foreigners covered by the scope of this study³¹ benefit from educational services provided by these institutions under different terms and conditions which apply to Polish citizens unless they have Polish origins (within the meaning of provisions on repatriation), they hold a valid Card of the Pole or are family members of shortlisted groups of foreigners (including those who were granted refugee status, granted residence permit for humanitarian reasons or subsidiary protection, residence permit or a long-term EU resident permit granted by other EU state on the basis of which they were granted temporary residence permit in Poland, applicants for international protection) or if such entitlement results from international agreements.

Among foreigners who are entitled to take up studies, doctoral studies, other forms of education, conduct research and development work under the same terms and conditions which apply to Polish citizens³² (by way of a qualifying procedure) are the following:

- holders of a residence permit granted for the purpose of highly qualified employment,
- family members of a foreigner residing in Poland on the basis of specific types of residence permits who hold residence permit for family reunification.

Other foreigners may take up studies, doctoral studies, other forms of education, conduct research and development work under different terms and conditions which apply to Polish citizens (against a fee unless they were granted a scholarship and thus exempt from the fees)³³, unless they hold a valid Card of the Pole (the only exemption is when they refuse to apply for admission under the same terms and conditions which apply to Polish citizens, i.e. when they are holders of scholarships granted by the Polish party).

4. MOBILITY (IN-COUNTRY AND INTRA-EU)

The right to mobility inside Poland was not restricted in any way. The intra-EU mobility is possible within the scope regulated by acquis of Schengen zone.

5. POLITICAL RIGHTS

Right to vote and right to stand for the presidential and parliamentary elections is restricted only to Polish citizens, and the analogical rights at the local level i.e. the municipal elections (only municipal council elections) – are restricted to EU citizens residing permanently in Poland.

³¹ Residence permits granted to minor children were not included in this subsection.

³² Those foreigners have access to the public higher education establishment free of charge; if they participate in paid education programmes set up by these universities (e.g. part-time studies, post-graduate studies, classes in foreign languages) they pay fees under the same terms and in the same amount as the Polish citizens. They are also entitled to apply for a scholarship and aid, or scholarship for the disabled, or the chancellor's scholarship for the best students, ministerial scholarship for academic merit, ministerial scholarship for excellent achievements and ministerial scholarship for excellent achievements in sports.

³³ Thus, they may study in Poland:

- as holders of scholarships granted by the Polish party (Polish government),
- as holders of scholarships granted by the sending institution (government of another country),
- free of charge studies without scholarship (within the framework of international agreements and aid programmes addressed to certain countries by Polish government),
- against a fee.

Foreigners having the place of residence on the territory of Poland (regardless of the kind of residence status) have the right to associate (including setting them up and being part of them) in accordance with the binding provisions for Polish citizens.

Foreigners (regardless of the kind of residence status) can also join trade unions, but the Constitution limits the possibility of becoming the member of political party only to Polish citizens.

6. LEGAL ASSISTANCE³⁴

The legal assistance³⁵ is available to all foreigners who are covered by the scope of this study (regardless of their immigration status):

- until the age of 26, or
- at the age of 65 and more, or
- those who are endangered or affected by natural disaster or technical failure.

Applicants for international protection are entitled to legal assistance and information:

- at the stage of **proceedings in the first instance** – including the necessity to inform such persons by the staff of the Office for Foreigners about the bindings provisions on granting international protection,
- at the stage of **appeal proceedings** – including the drafting of appeals against the decision and legal representation/substitution during the appeal proceedings.

The victims of human trafficking, who were granted the temporary residence permit, can receive free legal assistance within the National Consultation and Intervention Center for Victims of Human Trafficking (KCIK).

7. SOCIAL SECURITY

Social insurance and security system benefits

Benefits cover all residents – third-country nationals who are covered by mandatory or voluntary insurance³⁶, regardless of their immigration status.

³⁴ In accordance with Article 4 (1) of Act of 5 August 2015 on free legal assistance and legal education, the free legal assistance is granted to natural person, further known as “beneficiaries”:

- teenagers until the age of 26,
- people who have valid Card of a Big Family,
- people at the age of 65 and more,
- natural person, who previous year were granted a social assistance under the Act on social assistance,
- combatants,
- veterans,
- people endangered or affected by natural disaster or technical failure.

³⁵ Free legal assistance covers:

- providing beneficiaries with information about binding law, his/her rights and obligations, or
- indicating to beneficiaries how to resolve his/her legal issue, or
- assistance in preparing the draft of legal papers in some cases, apart from written pleadings during pending investigation or during the pending judicial and administrative proceedings before the court, or
- assistance in preparing the draft of motion to obtain legal aid, including exemption from court fees or legal representative during the judicial proceedings, or legal representative or tax advisor during the administrative proceedings

Free legal assistance does not cover cases related to:

- the tax law with regard to economic activity;
- the customs law, foreign exchange law and commercial law;
- the conduct of economic activity, apart from cases regarding the preparation to start economic activity.

³⁶ Social security insurance may be mandatory or voluntary, which depends *inter alia* on the character of a job and a type of an employment contract concluded with an employee concerned. Employees (i.e. those working based on a contract of employment) must contribute to all the four insurances (i.e. old-age insurance, disability insurance, sickness insurance and accident insurance). Self-employed persons are obliged to make contribution to mandatory old-age insurance, disability insurance and accident insurance; sickness insurance is voluntary and subject to filing a relevant application to this end. Similar solutions apply in case of persons who work based on agency agreement, mandate contract or a service contract. Persons who are not listed in the list of mandatory insurance contributors, including

The system covers almost all the employees as well as self-employed persons running a non-agricultural business.

Healthcare³⁷

Healthcare services funded from the state budget are available to all third-country citizens who are insured within the National Health Fund - NFZ (mandatorily or voluntarily³⁸) and reside in Poland on the basis of:

- temporary residence permit (and their family members who reside in Poland, if they are not covered by mandatory health insurance - they do not have their own title to health insurance benefits),
- national work visa (and their family members who reside in Poland, if they are not covered by mandatory health insurance - they do not have their own title to health insurance benefits).

Unemployment benefits³⁹

Foreigners entitled to be granted unemployment benefits (provided that they comply with general terms and conditions for granting a status of the unemployed individual) are the following:

- holders of a temporary residence and work permit,
- holders of a residence permit granted for the purpose of highly qualified employment,
- holders of a residence permit for the purpose of conducting research,
- holders of national work visa.

persons working based on a contract for a specific task, can decide by themselves whether to pay contributions to: the old-age and occupational disability insurance, and by virtue of law they are not subject to sickness and accident insurance (neither obligatory nor voluntary one).

³⁷ Pursuant to Article 3(1) of the Act of 27 August 2004 on healthcare benefits financed from public fund, the insured include the foreigners – third-country nationals:

- who stay in Poland on the basis of a visa for the purpose of performing work, a temporary residence permit, excluding a permit granted pursuant to Article 181(1) of the Act of 12 December 2013 on Foreigners, a permanent residence permit, a long-term EU national residence permit, a permit for stay for humanitarian reasons, a tolerated stay permit;
- who were granted a refugee status or subsidiary protection or temporary protection on the territory of the Republic of Poland;
- who are not citizens of an EU/EEA country and legally reside on the territory of other EU/EEA member state than Poland;

– if they are subject to compulsory health insurance or are voluntarily insured.

³⁸ Those who can become insured voluntarily include only people who live in the territory of Poland and are not subject to a statutory obligation of contributing to the health insurance fund as well as those who cannot be registered in the health insurance fund as members of a family of the insured individual. In the case of mandatory health insurance, the health insurance contribution is usually paid on behalf of the insured individual (also a foreigner) by another entity, such as employer, contracting party, Labour Office, school or university, etc., and in case of voluntary health insurance – the contribution is paid by the insured individual. The self-employed (i.e. individuals who conduct non-agricultural business) pay health insurance contributions by themselves.

The list of individuals who are insured obligatorily (i.e. must contribute to the health insurance fund) is quite long and includes i.a. : almost all people who are engaged in gainful activity in Poland, farmers, priests, uniformed officers, members of the Polish parliament, pensioners, judges and prosecutors; children until they start education at school, students, including PhD students, those unemployed, individuals who benefit from a welfare benefits and family benefits; foreigners covered with international protection who stay in Poland – if they are subject to individual integration programme in cooperation with poviats centres for family assistance – and individuals who are on parental leave. Public health-care benefits can be claimed freely also by members of the family of those listed above (children, spouses, parents and grand parents, as long as they fulfil statutory requirements), who are reported to the health insurance fund by the individual insured mandatorily or voluntarily (in Poland there is an obligation to report family members to health insurance).

³⁹ Pursuant to Article 2(1)(2) of the Act of 20 April 2004 on employment promotion and labour market institutions (Journal of Laws of 2015, No 69, item 149, as amended), the foreigners holding one of the following residence entitlements may obtain unemployment benefits, after meeting specific requirements:

- refugee status;
- permanent residence permit;
- residence permit for a long-term EU resident;
- temporary residence permit granted for the purpose of highly qualified employment;
- temporary residence permit granted for the purpose of conducting research;
- temporary residence permit granted in connection with holding a residence permit for a long-term EU resident in another EU Member State;
- consent for stay for humanitarian reasons or consent for a tolerated stay;
- coverage with temporary or subsidiary protection in Poland;
- temporary residence permit for a family member of a Polish citizen or a stamp in the travel document confirming the submission of an application for a temporary residence permit, residence permit, or long-term EU resident status if they held a temporary residence permit immediately before application submission;
- temporary residence and work permit or a visa issued to perform work provided that immediately before registration as unemployed they were continuously employed in Poland for a period of at least 6 months.

The foreigners listed above, directly before the registration in labour office, have to however be continuously employed in Poland for the period of at least six months.

Social assistance⁴⁰

Foreigners residing in Poland on the basis of national visa and temporary residence permit, who are covered by the scope of this study, are generally not entitled to social assistance in Poland. The exceptions are:

- victims of human trafficking who were granted temporary residence permit who are entitled to crisis intervention, shelter, meal, necessary clothes and special needs allowance,
- foreigners granted residence permits for tolerated stay and residence permit for humanitarian reasons who are entitled to shelter, meal, necessary clothes and special needs allowance.

Family benefits⁴¹

Foreigners entitled to be granted family benefits (provided that they comply with general terms and conditions) are the following:

- family members of a foreigner residing in Poland on the basis of specific types of residence permits who hold residence permit for family reunification (including foreigners who in the event of particular family situation i.e. death of a spouse, divorce or separation, retained the right to reside in Poland on the basis of the temporary residence permit),
- researchers residing in Poland on the basis of the residence permit for the purpose of conducting research (both granted by Poland and other EU state) - for the entire duration of the residence,
- holders of a residence permit granted for the purpose of highly qualified employment,
- holders of a temporary residence and work permit,
- holders of a residence permit for the purpose of conducting business activity (except of foreigners who were issued work permit for a period not exceeding six months – it applies to foreigners who in the limited liability company or stock company - which they created or the shares/stocks of which they took over/purchased – perform work by holding the position of a member of the management board),
- victims of human trafficking who were granted temporary residence permit,

⁴⁰ Pursuant to Article 5 of the Act of 12 March 2004 on social assistance, these benefits may be granted, under certain conditions, to foreigners – third-country nationals:

- staying in the Republic of Poland on the basis of a permanent residence permit, a residence permit for a long-term resident of the European Union, a temporary residence permit issued to family member of a foreigner who were granted refugee status or subsidiary protection, or holders of a long-term EU resident permit granted by another Member State of the European Union, who were granted a temporary residence permit in Poland on this basis;
- who were granted a refugee status or subsidiary protection;
- staying on the basis of a residence permit for tolerated stay or residence permit for humanitarian reasons (in a form of shelter, meal, clothes and special needs allowance);
- who are family members of citizens of an EU/EEA country and have a right to stay or permanent right to stay on the territory of Poland.

⁴¹ Pursuant to Article 1(1)(2) of the Act of 28 November 2003 on family benefits, these benefits may be granted, under certain conditions, to foreigners – third-country nationals:

- to whom the provisions on coordination of social security systems are applicable;
- if it results from bilateral international agreements on social security to which the Republic of Poland is a party;
- staying in the Republic of Poland on the basis of a permanent residence permit, a residence permit for a long-term resident of the European Union, a temporary residence permit granted in connection with performance of work in a profession that requires high qualifications, holders of a long-term EU resident permit granted by another Member State of the European Union, who were granted a temporary residence permit in Poland on this basis, or in connection with obtaining a refugee status or subsidiary protection in the Republic of Poland if they reside with family members in the Republic of Poland,
- holding a residence permit with an “access to the labour market” annotation (in the case of a permit granted to a foreigner who has the right to work or is exempt from the obligation to hold a work permit in Poland), excluding third-country nationals who were granted a work permit in the territory of a Member State for a period not exceeding six months, third-country nationals who have been admitted for the purpose of studying and third-country nationals who are allowed to work on the basis of a visa.

- holders of a residence permit granted to graduates of Polish universities seeking employment – if they graduated from full-time studies.

The other foreigners covered by the scope of this study do not have access to those benefits unless they are citizens of Macedonia, Bosnia and Herzegovina, Serbia and Montenegro⁴².

Other benefits:

6a) social pension (long-term care benefits)⁴³

Foreigners – third-country nationals - entitled to be granted social pension (provided that they comply with general terms and conditions) are the following:

- family members of a foreigner residing in Poland on the basis of specific types of residence permits who hold residence permit for family reunification (including foreigners who in the event of particular family situation i.e. death of a spouse, divorce or separation, retained the right to reside in Poland on the basis of the temporary residence permit),
- students of full-time studies or doctoral studies in Poland residing on the basis of a residence permit issued for the purpose of taking up or continuing studies – for the entire duration of the residence,
- researchers residing in Poland on the basis of the residence permit for the purpose of conducting research (both granted by Poland and other EU state) - for the entire duration of the residence,
- holders of a residence permit granted for the purpose of highly qualified employment,
- holders of a temporary residence and work permit.
- holders of a residence permit for the purpose of conducting business activity,
- victims of human trafficking who were granted temporary residence permit,
- holders of a residence permit granted to graduates of Polish universities seeking employment – if they graduated from full-time studies.
- posiadający zezwolenie na pobyt czasowy dla absolwenta polskiej uczelni poszukującego w Polsce pracy – jeśli jest absolwentem studiów stacjonarnych.

The other foreigners covered by the scope of this study do not have access⁴⁴ to those benefits.

6b) other benefits for applicants for international protection

Applicants for international protection are entitled to two types of assistance:

- accommodation in reception center (including full board, reimbursement of public transport fares in justified cases, regular money for cleaning and personal hygiene products, pocket money, one-time financial

⁴² It results from bilateral agreements on social security concluded by Poland with the former Yugoslavia and Macedonia. This results from the bilateral agreements on social security between the Republic of Poland and former Yugoslavia and Macedonia. In the case of former Yugoslavia (Bosnia and Herzegovina, Serbia, and Montenegro) this applies to all family benefits, while in the case of Macedonia only family benefits and supplements to family benefits (it is not applicable to e.g. care benefit, care allowance or special care allowance).

⁴³ Pursuant to Article 2 of the Act of 27 June 2003 on the social disability pension, these benefits may be granted, under certain conditions, to foreigners – third-country nationals:

- residing in the Republic of Poland on the basis of a permanent residence permit, a residence permit for a long-term resident of the European Union, a temporary residence permit granted in connection with performance of work in a profession that requires high qualifications, holders of a long-term EU resident permit granted by another Member State of the European Union, who were granted a temporary residence permit in Poland on this basis, or in connection with obtaining a refugee status or subsidiary protection in the Republic of Poland,
- holding a residence permit with an “access to the labour market” annotation (in the case of a permit granted to a foreigner who has the right to work or is exempt from the obligation to hold a work permit in Poland).

⁴⁴ Residence permits granted to minor children were not included in this subsection.

aid for the purchase of clothes and shoes, cash equivalent to food for children aged 6 and below attending school, or

- financial aid to cover living costs outside reception center.

Moreover, irrespectively of the type of assistance, all foreigners have the right to:

- access to public schools and necessary didactic materials (driving children to school, books and school materials),
- free Polish lessons,
- health care, which cover medical assistance provided by doctors and nurses in reception centers, specialised treatment, psychological care,
- dental care,
- assistance with a voluntary return to country of origin.

6c) other benefits for applicants for victims of human trafficking who were granted residence permit

Persons who receive assistance from the National Consultation and Intervention Center for victims of human trafficking (KCIK) addressed to Polish and foreign victims of human trafficking run by the non-governmental organization, may receive free of charge specialist consultations concerning their individual situation, necessary medical assistance, free of charge shelter and specialist assistance (i.e. legal or psychological) as well as clothes, meal and hygiene products.

They can also benefit from assistance with a voluntary return to country of origin provided by the International Organisation for Migration (IOM).

8. DURATION OF STAY

All types of residence permits covered by the scope of this study are issued for the period of up to 3 years. Exceptions are residence permit granted for the purpose of:

- taking up or continuing studies, which is issued for the period of 15 months (the subsequent for 3 years),
- taking up or continuing education or vocational training , which is issued for the period of 1 year,
- seeking employment by the graduate from Polish university, which is issued for the period of 1 year.

National visa is issued for the period of up to 1 year.

As for applicant for international protection, duration of their stay in Poland depends on the lenght of procedure and its result.

9. OTHER

Stamp duty

Granting of all types of residence permit covered by the scope of this study is subject to stamp duty in the amount of 340 zł. Exceptions are:

- temporary residence and work permits (except of a residence and work permit granted to foreigners who in the limited liability company or stock company - the shares/stocks of which they do not have – perform work by holding the position of a member of the management board) and a residence permit granted for the purpose of highly qualified employment – in case of which stamp duty amount to 440 zł,
- temporary residence permit granted to victims of human trafficking - in case of which no stamp duty is charged,

As for visa fee, it varies between 0 and 90 euro, depending on the type of visa and the citizenship of the applicant.

Submitting application for international protection is not subject to stamp duty.

Table 4. Rights granted to different categories of third-country nationals after the change of immigration status

From	Into	Employment	Social security	Education	Length of stay	Legal assistance	Mobility	Family reunification	Political rights	Other		
Family	Education	No change/Reduced rights (depends on type of residence and individual case)	No change/Reduced rights/Enhanced rights (depends on type of residence, individual case and type of benefit)	No change/Reduced rights (depends on type of residence, individual case and level of education)	Reduced rights	No change	No change	No change	No change	-		
Family	Research	No change	No change/Reduced rights/Enhanced rights (depends on individual case and type of benefit)	No change/Reduced rights (depends on individual case and level of education)	No change	No change	No change	Enhanced rights	No change	-		
Family	Blue Card	No change/Reduced rights (depends on individual case)		No change	No change	No change	No change	No change	Enhanced rights	No change	Reduced rights: higher fee for issuing a permit	
Family	Work			No change/Reduced rights (depends on individual case and level of education)	No change	No change	No change	No change	No change	No change	Reduced rights: higher fee for issuing a permit	
Family	Self-employment			No change	No change	No change	No change	No change	No change	No change	No change	-
	Owning of business			No change	No change	No change	No change	No change	No change	No change	No change	-
Family	Investment			No change	No change	No change	No change	No change	No change	No change	No change	-
Family	Intra-company transfer	No change		No change	No change	No change	No change	No change	No change	No change	-	
Family	Application for granting international protection	Reduced rights		No change/Enhanced rights (depends on type of residence, individual case and level of education)	No change/Enhanced rights (depends on type of residence, individual case and level of education)	Enhanced rights	No change	No change	No change	No change	-	
Family	Human trafficking	No change	No change	No change	Enhanced rights	Enhanced rights	No change	No change	No change	Enhanced rights: no fee for issuing a permit		
Education	Family	No change/Enhanced rights (depends on type of residence and individual case)	No change/Reduced rights/Enhanced rights (depends on type of residence, individual case and type of benefit)	No change/Enhanced rights (depends on type of residence, individual case and level of education)	Enhanced rights	No change	No change	No change	No change	-		
Education	Research	No change/Enhanced rights (depends on type of residence and individual case)		No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)	Enhanced rights	No change	No change	Enhanced rights	No change	-		
Education	Blue Card	No change/Enhanced rights/Reduced rights (depends on type of residence and individual case)		No change/Enhanced rights (depends on type of residence, individual case and level of education)	Enhanced rights	No change	No change	No change	Enhanced rights	No change	Reduced rights: higher fee for issuing a permit	
Education	Work			No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)	Enhanced rights	No change	No change	No change	No change	No change	Reduced rights: higher fee for issuing a permit	
Education	Self-employment			No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)	Enhanced rights	No change	No change	No change	No change	No change	No change	-
	Owning of business			No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)	Enhanced rights	No change	No change	No change	No change	No change	No change	-
Education	Investment			No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)	Enhanced rights	No change	No change	No change	No change	No change	No change	-
Education	Intra-company transfer	No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)		Enhanced rights	No change	No change	No change	No change	No change	No change	-	
Education	Application for granting international protection	Reduced rights	No change/Enhanced rights/Reduced rights (depends on length of procedure and its result)	No change/Enhanced rights/Reduced rights (depends on length of procedure and its result)	Enhanced rights	Enhanced rights	No change	Reduced rights	No change	-		
Education	Human trafficking	No change/Enhanced rights (depends on type of residence and individual case)	No change/Enhanced rights (depends on type of residence and individual case)	No change/Enhanced rights (depends on type of residence and individual case)	Enhanced rights	Enhanced rights	No change	No change	No change	Enhanced rights: no fee for issuing a permit		

From	Into	Employment	Social security	Education	Length of stay	Legal assistance	Mobility	Family reunification	Political rights	Other
Research	Family	No change	No change/Reduced rights/Enhanced rights (depends on individual case and type of benefit)	No change/Enhanced rights (depends on individual case and level of education)	No change	No change	No change	Reduced rights	No change	-
Research	Education	No change/Reduced rights (depends on type of residence and individual case)	No change/Reduced rights/Enhanced rights (depends on type of residence, individual case and type of benefit)	No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)	Reduced rights	No change	No change	Reduced rights	No change	-
Research	Work	Reduced rights/No change (depends on individual case)	No change/Reduced rights/Enhanced rights (depends on individual case and type of benefit)	No change/Enhanced rights/Reduced rights (depends on individual case and level of education)	No change	No change	No change	Reduced rights	No change	Reduced rights: higher fee for issuing a permit
Research	Self-employment				No change	No change	No change	Reduced rights		-
	Owning of business									
	Investment									
Research	Intra-company transfer				No change	No change	No change	Reduced rights	No change	-
Research	Application for granting international protection				No change/Enhanced rights/Reduced rights (depends on length of procedure and its result)	Enhanced rights	No change	Reduced rights	No change	-
Research	Human trafficking	No change			No change	Enhanced rights	No change	Reduced rights	No change	Enhanced rights: no fee for issuing a permit
Blue Card	Family	Enhanced right/No change (depends on individual case)		No change	No change	No change	No change	Reduced rights	No change	Enhanced rights: lower fee for issuing a permit
Blue Card	Education	No change/Reduced rights/Enhanced rights (depends on type of residence and individual case)	No change/Reduced rights/Enhanced rights (depends on type of residence, individual case and type of benefit)	Reduced rights/No change (depends on type of residence, individual case and level of education)	Reduced right	No change	No change	Reduced rights	No change	Enhanced rights: lower fee for issuing a permit
Blue Card	Research	Enhanced rights/No change (depends on individual case)	No change/Reduced rights/Enhanced rights (depends on individual case and type of benefit)	No change/Reduced rights (depends on individual case and level of education)	No change	No change	No change	No change	No change	Enhanced rights: lower fee for issuing a permit
Blue Card	Work	No change/Reduced rights/Enhanced rights (depends on individual case)			No change	No change	No change	Reduced rights	No change	-
Blue Card	Self-employment				No change	No change	No change	Reduced rights	No change	Enhanced rights: lower fee for issuing a permit
	Owning of business									
	Investment									
Blue Card	Intra-company transfer				No change	No change	No change	Reduced rights	No change	Enhanced rights: lower fee for issuing a permit
Blue Card	Application for granting international protection	Reduced rights			No change/Enhanced rights/Reduced rights (depends on length of procedure and its result)	Enhanced rights	No change	Reduced rights	No change	Enhanced rights: no fee for issuing a permit
Blue Card	Human trafficking	Enhanced rights/No change (depends on individual case)			No change	Enhanced rights	No change	Reduced rights	No change	Enhanced rights: no fee for issuing a permit

From	Into	Employment	Social security	Education	Length of stay	Legal assistance	Mobility	Family reunification	Political rights	Other
Work	Family			<i>No change/Enhanced rights (depends on individual case and level of education)</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights: lower fee for issuing a permit</i>
Work	Education	<i>Enhanced rights/No change/Reduced rights (depends on type of residence and individual case)</i>	<i>No change/Reduced rights/Enhanced rights (depends on type of residence, individual case and type of benefit)</i>	<i>No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)</i>	<i>Reduced rights</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights: lower fee for issuing a permit</i>
Work	Research	<i>Enhanced rights/No change (depends on individual case)</i>	<i>No change/Reduced rights/Enhanced rights (depends on individual case and type of benefit)</i>	<i>No change/Enhanced rights/Reduced rights (depends on individual case and level of education)</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Enhanced rights: lower fee for issuing a permit</i>
Work	Blue Card	<i>Enhanced rights/No change/Reduced rights (depends on individual case)</i>		<i>No change/Enhanced rights (depends on individual case and level of education)</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>No change</i>
Work	Self-employment			<i>No change/Enhanced rights/Reduced rights (depends on individual case and level of education)</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights: lower fee for issuing a permit</i>
	Owning of business									
	Investment									
Work	Intra-company transfer				<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights: lower fee for issuing a permit</i>
Work	Application for granting international protection	<i>Reduced rights</i>			<i>No change/Enhanced rights/Reduced rights (depends on length of procedure and its result)</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Reduced rights</i>	<i>No change</i>	<i>Enhanced rights: no fee for issuing a permit</i>
Work	Human trafficking	<i>Enhanced rights/No change (depends on individual case)</i>			<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights: no fee for issuing a permit</i>

From	Into	Employment	Social security	Education	Length of stay	Legal assistance	Mobility	Family reunification	Political rights	Other
Self-employment	Family			No change/Enhanced rights (depends on individual case and level of education)	No change	No change	No change	No change	No change	-
Owning of business										
Investment										
Self-employment	Education	Enhanced rights/No change/Reduced rights (depends on type of residence and individual case)	No change/Reduced rights/Enhanced rights (depends on type of residence, individual case and type of benefit)	No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)	Reduced rights	No change	No change	No change	No change	-
Owning of business										
Investment										
Self-employment	Research	Enhanced rights/No change (depends on individual case)	No change/Reduced rights/Enhanced rights (depends on individual case and type of benefit)	No change/Enhanced rights/Reduced rights (depends on individual case and level of education)	No change	No change	No change	Enhanced rights	No change	-
Owning of business										
Investment										
Self-employment	Blue Card	Enhanced rights/No change/Reduced rights (depends on individual case)		No change/Enhanced rights (depends on individual case and level of education)	No change	No change	No change	Enhanced rights	No change	Reduced rights: higher fee for issuing a permit
Owning of business										
Investment										
Self-employment	Work			No change/Enhanced rights/Reduced rights (depends on individual case and level of education)	No change	No change	No change	No change	No change	Reduced rights: higher fee for issuing a permit
Owning of business										
Investment										
Self-employment	Intra-company transfer				No change	No change	No change	No change	No change	-
Owning of business										
Investment										
Self-employment	Application for granting international protection	Reduced rights			No change/Enhanced rights/Reduced rights (depends on length of procedure and its result)	Enhanced rights	No change	Reduced rights	No change	Enhanced rights: no fee for issuing a permit
Owning of business										
Investment										
Self-employment	Human trafficking	Enhanced rights/No change (depends on individual case)			No change	Enhanced rights	No change	No change	No change	Enhanced rights: no fee for issuing a permit
Owning of business										
Investment										
Intra-company transfer	Family			No change/Enhanced rights (depends on individual case and level of education)	No change	No change	No change	No change	No change	-
Intra-company transfer	Education	Enhanced rights/No change/Reduced rights (depends on type of residence and individual case)	No change/Reduced rights/Enhanced rights (depends on type of residence, individual case and type of benefit)	No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)	Reduced rights	No change	No change	No change	No change	-
Intra-company transfer	Research	Enhanced rights/No change (depends on individual case)	No change/Reduced rights/Enhanced rights (depends on individual case and type of benefit)	No change/Enhanced rights/Reduced rights (depends on individual case and level of education)	No change	No change	No change	Enhanced rights	No change	-
Intra-company	Blue Card	Enhanced rights/No change/Reduced rights		No change/Enhanced rights (depends on individual case)	No change	No change	No change	Enhanced rights	No change	Reduced rights: higher fee for issuing a permit

From	Into	Employment	Social security	Education	Length of stay	Legal assistance	Mobility	Family reunification	Political rights	Other
transfer		<i>(depends on individual case)</i>		<i>and level of education)</i>						
Intra-company transfer	Work			<i>No change/Enhanced rights/Reduced rights (depends on individual case and level of education)</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
Intra-company transfer	Self-employment				<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	-
	Owning of business									
	Investment									
Intra-company transfer	Application for granting international protection	<i>Reduced rights</i>			<i>No change/Enhanced rights/Reduced rights (depends on length of procedure and its result)</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Reduced rights</i>	<i>No change</i>	-
Intra-company transfer	Human trafficking	<i>Enhanced rights/No change (depends on individual case)</i>			<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights: no fee for issuing a permit</i>
D-type visa	Family				<i>Enhanced rights</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
D-type visa	Education	<i>Enhanced rights/No change/Reduced rights (depends on type of residence and individual case)</i>	<i>No change/Reduced rights/Enhanced rights (depends on type of residence, individual case and type of benefit)</i>	<i>No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)</i>	<i>Enhanced rights/No change (depends on residence)</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
D-type visa	Research	<i>Enhanced rights/No change (depends on individual case)</i>	<i>No change/Reduced rights/Enhanced rights (depends on individual case and type of benefit)</i>	<i>No change/Enhanced rights/Reduced rights (depends on individual case and level of education)</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
D-type visa	Blue Card	<i>Enhanced rights/No change/Reduced rights (depends on individual case)</i>		<i>No change/Enhanced rights (depends on individual case and level of education)</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
D-type visa	Work			<i>No change/Enhanced rights/Reduced rights (depends on individual case and level of education)</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
D-type visa	Self-employment				<i>Enhanced rights</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
	Owning of business									
	Investment									
D-type visa	Intra-company transfer				<i>Enhanced rights</i>	<i>No change</i>	<i>No change</i>	<i>Enhanced rights</i>		<i>Reduced rights: higher fee for issuing a permit</i>
D-type visa	Application for granting international protection	<i>Reduced rights</i>			<i>No change/Enhanced rights/Reduced rights (depends on length of procedure and its result)</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change/Enhanced rights (depends on a case)</i>
D-type visa	Human trafficking	<i>Enhanced rights/No change (depends on individual case)</i>			<i>Enhanced rights</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Enhanced rights: no fee for issuing a permit</i>
Human trafficking	Family	<i>No change</i>		<i>No change/Enhanced rights (depends on individual case and level of education)</i>	<i>No change</i>	<i>Reduced rights</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
Human trafficking	Education	<i>No change/Reduced rights (depends on type of residence and individual case)</i>	<i>No change/Reduced rights/Enhanced rights (depends on type of residence, individual case and type of benefit)</i>	<i>No change/Enhanced rights/Reduced rights (depends on type of residence, individual case and level of education)</i>	<i>Reduced rights</i>	<i>Reduced rights</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
Human	Research	<i>No change</i>	<i>No change/Reduced</i>	<i>No change/Enhanced</i>	<i>No change</i>	<i>Reduced</i>	<i>No</i>	<i>Enhanced</i>	<i>No</i>	<i>Reduced rights: higher fee</i>

From	Into	Employment	Social security	Education	Length of stay	Legal assistance	Mobility	Family reunification	Political rights	Other
trafficking			<i>rights/Enhanced rights (depends on individual case and type of benefit)</i>	<i>rights/Reduced rights (depends on individual case and level of education)</i>		<i>rights</i>	<i>change</i>	<i>rights</i>	<i>change</i>	<i>for issuing a permit</i>
Human trafficking	Blue Card	<i>Reduced rights/No change (depends on type of residence and individual case)</i>		<i>No change/Enhanced rights (depends on individual case and level of education)</i>	<i>No change</i>	<i>Reduced rights</i>	<i>No change</i>	<i>Enhanced rights</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
Human trafficking	Work			<i>No change/Enhanced rights/Reduced rights (depends on individual case and level of education)</i>	<i>No change</i>	<i>Reduced rights</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
Human trafficking	Self-employment			<i>No change</i>	<i>Reduced rights</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>
	Owning of business									
	Investment									
Human trafficking	Intra-company transfer			<i>No change</i>	<i>Reduced rights</i>	<i>No change</i>	<i>No change</i>	<i>No change</i>	<i>Reduced rights: higher fee for issuing a permit</i>	
Human trafficking	Application for granting international protection	<i>Reduced rights</i>		<i>(depends on length of procedure and its result)</i>	<i>Reduced rights</i>	<i>No change</i>	<i>Reduced rights</i>	<i>No change</i>	<i>No change</i>	

4. Challenges in terms of the possibility to change the immigration status by foreigners in Poland

Based on the information provided by the offices of the voivode⁴⁵ that are immigration authorities responsible for the application of the provisions concerning entry and residence, a number of problems/challenges have been identified that emerge in the course of administrative proceedings aimed at a change in the immigration status of a foreigner. These include in particular:

- the length of administrative procedures (both related to obtaining a relevant residence permit and information from the staroste on the inability to meet personnel needs, for which an employer requests the poviata labour office prior to applying to the voivode for a residence and work permit), which was the result of, *inter alia*:
 - increased interest in legalisation of stay in Poland among foreigners,⁴⁶ which is related to the entry into force of the new Act on Foreigners in 2015, and the unstable situation in Ukraine,
 - frequent changes in immigration regulations (also introduced in order to prevent abuse), for example from the date of entry into force of the new Act on Foreigners the model application form for a temporary residence permit changed twice, and the proceedings became more formalised, e.g. by requiring the signature of an annex to the application by the entity that entrusts work to a foreigner,
 - foreigners stating false information regarding the true purpose of their stay in Poland (mainly due to the fact that foreigners perceive certain types of permits as easier to obtain), which required the involvement of control bodies,
 - idleness of foreigners in the proceedings, including failure to collect mail and failure to provide the documents requested by the Office,
 - change in the purpose of the stay invoked by the foreigner already during ongoing administrative proceedings, which results in the need to restart the proceedings (including collection of new documents, re-examination of the entire body of evidence),
- procedural difficulties in the area of legalisation criteria:
 - the requirement for graduates of Polish universities to prove they have a stable and regular source of income in case they want to legalise their stay in order to look for work, which is difficult for people who only just started looking for a job,
 - refusal to initiate proceedings on granting of a residence and work permit in the case of a foreigner pursuing economic activity who would like to work for another entity – this concerns in particular situations where economic activity does not generate expected income and winding it up requires a certain amount of time,
 - it is impossible for foreigners who exercise the right to work on the basis of an employer's declaration of intention to entrust work and reside in Poland on the basis of a visa to work during an ongoing legalisation procedure when the declaration expires, until they are granted a residence and work permit,
 - multiple conduct of administrative proceedings for granting a temporary residence and work permit covering the same foreigner in case the foreigner changes an employer or a job during the validity of the

⁴⁵ Information was provided by 12 offices of the voivode.

⁴⁶ The length of application processing is defined by national legislation. According to regulations, the decision on the temporary residence permit should be issued within 1 month, and in particularly complex cases – not later than within 2 months from the date of documents submission. Appeal proceedings also last one month from the date of receipt of the appeal by the Office for Foreigners (these periods do not include the period of proceedings suspension, delays attributed to the foreigner, or reasons beyond the control of the Office). In practice, however, in some parts of Poland applications for the legalisation of stay are processed longer than 3 months. The timespan for individual voivodeships in 2015 was: 2-12 and 6-24 weeks, respectively. For example, in the case of the Mazowieckie Voivodeship office, which processes as many as 40% of all applications for the legalisation of stay submitted by foreigners in Poland, the average waiting time for a decision on the residence permit is one year.

permit (this is due to the fact that the residence and work permit applies to a specific employer and job, due to which it is necessary to change the decision of the voivode, and thus to file another application for a permit in view of a new job), which requires the foreigner to pay another stamp duty for a permit in the same amount (PLN 440, even though the foreigner has already paid for a residence permit that has not yet expired), less mobility on the labour market and often impossibility to work for a new employer due to ongoing administrative procedure, and immigration officers must repeat a time-consuming procedure,

- different set of rights of foreigners holding residence permits issued due to different purposes of stay:
 - change in the study programme from full-time to part-time makes foreigners lose access to the labour market without having to obtain a work permit,
 - in the case of termination of marriage with a Polish citizen (death of the spouse, separation or divorce) a foreigner loses access to the labour market without having to obtain a work permit, even if he/she has custody over a minor Polish citizen, and applying for a new permit on a different basis for legalisation (family life within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms) he/she must provide evidence for a stable and regular source of income and insurance (conditions not required at the stage of applying for a permit when married to a Polish citizen),
- high degree of complexity of the immigration regulations that govern residence (including changes in the immigration status) and taking up and pursuing work in Poland, which translates into poor knowledge of these regulations among foreigners. For example, some offices of the voivode reported incorrect understanding by foreigners of the acts connected with confirmation by the office of another residence permit application submission through a stamp in a passport (in spite of limited freedom of movement and being informed of its effects, foreigners treat the stamp as a sort of visa that enables them to travel within the Schengen area), as well as foreigners' difficulties in establishing the duration of legal residence in Poland on the basis of a visa (it is sometimes the case that during submission of an application for a residence permit foreigners learn that their stay in Poland is illegal due to the expiry of a visa). In this context, it should be noted that there are no dedicated information channels devoted to possibilities of changing one's residence status. Every foreigner who applies for a residence permit is informed of his/her rights and obligations and of the rules of legalisation of his/her stay in Poland. In addition, the website of the Office for Foreigners (second instance in cases concerning the legalisation of stay) contains information on the possibilities and methods of "extending one's stay" in Poland (the terms "change the residence status/stay purpose" is not used). The information is presented as a multi-stage form/application (the user finds interesting information by selecting appropriate tabs to find information on the conditions for granting a given permit⁴⁷). The website is available in Polish, Russian, and English. Websites of the offices of the voivode (first instance in cases of the legalisation of stay) present the legal status in a more traditional way, but also in their case a gradual change in approach should be emphasised.

⁴⁷ More at <http://udsc.gov.pl/en/cudzoziemcy/>.

Conclusions

- The issues related to the possibility to change the purpose of stay of foreigners have not yet been subject of an extensive public debate or discussion among experts dealing with migration to Poland. This topic was touched up to a small extent only in the context of foreign students and the scope of economic activity that they are allowed to conduct after completing their studies, as well as the change of purpose of stay, and in the context of graduates of Polish universities who seek employment in Poland. The discussions led to necessary amendments to the law.
- The provisions of the current Act on Foreigners are flexible in allowing foreigners to obtain another residence permit (without having to travel to the country of origin) in the event of a change in the circumstances that constitute the reason for their stay in Poland. A foreigner staying in Poland legally (e.g. based on a residence permit granted for the purpose of studying) who wants to change his/her status (e.g. due to starting work after completion of studies), may – having met the specific requirements – change his/her stay status at any moment during the stay. The foreigner in general does not have an obligation to leave Poland, if he/she submits an application for a residence permit by the set deadline (on the last day of his/her legal stay at the latest).
- The change of residence status in Poland is possible with respect to an overwhelming majority of permits. The only existing restrictions result from the necessity to adjust Polish provisions to migration-related directives. According to them, a temporary residence permit cannot be granted to a foreigner who were granted one of the forms of national protection (residence permit for tolerated stay or residence permit for humanitarian reasons), who apply for or were granted international protection in Poland.⁴⁸ The aim of the above mentioned provision is to separate clearly the institutions regulated under the Act on Foreigners from the forms of stay legalization with regard to protection of foreigners on the territory of Poland, which are granted for indefinite period of time and might be withdrawn only in shortlisted cases. The provision allows also to avoid situations in which a foreigner would have two residence permits, one granted due to granting protection and the other one granted under the Act on Foreigners. In order to change their residence status, those foreigners have to leave Poland and return with a visa. The same rule applies to foreigners holding a permit for the purpose of highly qualified employment, if they want to legalise their stay based on a temporary residence permit for research purposes.
- Every time they change their residence status, foreigners must meet all the conditions of residence and therefore must submit a new application along with a complete set of documents proving the new conditions. There are no facilitated procedures available, such as possibility to lodge an application via Internet, simplified and shorter permit granting procedure, reduced stamp duty, extended permit validity period or lesser scope of required documents, etc. which in some circumstances have a negative impact on mobility of foreigners at the labour market.
- According to data generated by Eurostat, in 2014 the change of purpose of stay was most often made by foreigners staying in Poland for education reasons (the majority of them changed the purpose of their stay for stay for remunerated activities⁴⁹) and for remuneration activities.
- It is also worth emphasizing that in numerous cases Polish legal regulations allow foreigners to exercise a certain scope of rights before they are granted a new residence permit, e.g. foreigners holding a temporary residence permit granted for the purpose of full-time studies may work during their studies

⁴⁸ An exception is the situation when a foreigner is a victim of human trafficking and applies for legalisation of stay for that reason.

⁴⁹ This is connected with the possibility of graduates of Polish universities to obtain a temporary residence permit (valid for up to 1 year) if they want to look for a job in Poland. This residence entitlement was introduced to the Act on Foreigners in 2014.

without having to change their residence permit. Moreover, they are exempt from the obligation to have a work permit.

- The problems/challenges that emerge in the course of administrative proceedings aimed at a change in the immigration status of a foreigner include in particular: the waiting time for decision on granting/changing a residence permit (which is the result of, *inter alia*: increased interest in legalisation of stay in Poland among foreigners in recent years), procedural difficulties in the area of legalisation criteria and high degree of complexity of the immigration regulations, which translates into poor knowledge of these regulations among foreigners.

Statistical annex

Table 5. All valid residence permits by reason, on 31 December (2010-2014)⁵⁰

Year	Reason	
2010	Total	130 886
	Family reasons	61 464
	Education reasons	12 901
	Remunerated activities reasons	27 090
2011	Total	144 876
	Family reasons	27 608
	Education reasons	8 080
	Remunerated activities reasons	62 229
2012	Total	227 021
	Family reasons	43 007
	Education reasons	13 478
	Remunerated activities reasons	133 162
2013	Total	316 336
	Family reasons	30 431
	Education reasons	22 094
	Remunerated activities reasons	130 421
2014	Total	364 652
	Family reasons	34 781
	Education reasons	30 701
	Remunerated activities reasons	150 233

Source: Eurostat (*migr_resvalid*), extracted 5th February 2016

Tabela 6. Number of "EU Blue Cards" (2012-2015)

2012	2013	2014	2015
2	16	46	369

Source: Eurostat (*migr_resbc1*), extracted 5th February 2016

Table 7. Issued skilled or highly skilled national labour permits (2010-2014)⁵¹

2010	2011	2012	2013	2014	2015
14 962	16 609	16 268	13 726	18 023	32 147

Source: Ministry of Family, Labour and Social Policy

⁵⁰ Big increase in case of Poland (from 130 000 in 2010 to 364 000 within 3-year period) results from the fact that only in 2012 data cover also long-term visas.

⁵¹ The data includes the number of work permits issued to executives, advisers, experts and skilled workers. It should be emphasized that the data on work permits do not reflect the total number of foreigners employed in Poland, because they do not cover all categories of foreigners authorized to work. Many foreigners are in fact exempted from the obligation to obtain a work permit.

Table 8. Number of victims of trafficking who were granted residence permit based on Directive 2004/81 (2010-2012)

2010	2011	2012
5	17	22

Source: Eurostat (2015) *Trafficking in Human Beings*, Table A12: Number of victims (identified and presumed) by assistance and protection: residence permit based on Directive 2004/81

Table 9. Change of immigration status permits by reason (2010-2014)

	Change from:	Change into:	
2010	Family	Education	543
		Remunerated activities	1 042
	Education	Family	541
		Remunerated activities	777
	Remunerated activities	Family	254
		Education	138
2011	Family	Education	643
		Remunerated activities	516
	Education	Family	1 453
		Remunerated activities	34
	Remunerated activities	Family	3 681
		Education	5 722
2012	Family	Education	1 637
		Remunerated activities	2 007
	Education	Family	3 864
		Remunerated activities	1 042
	Remunerated activities	Family	358
		Education	398
2013	Family	Education	228
		Remunerated activities	595
	Education	Family	559
		Remunerated activities	1 242
	Remunerated activities	Family	774
		Education	109
2014	Family	Education	173
		Remunerated activities	472
	Education	Rodzina	316
		Remunerated activities	1 225
	Remunerated activities	Family	423
		Education	111

Source: Eurostat (*migr_reschange*), extracted 5th February 2016