Migratory Pathways for Startups and Innovative Entrepreneurs in the European Union

Report drawn up by the European Migration Network in Poland.



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This National Report was compiled and prepared by the Ministry of the Interior and Administration acting in the capacity of the coordinator of the European Migration Network in Poland. The basis for the work on the report were common specifications and methodologies adopted by the European Migration Network (EMN).

The European Migration Network was established pursuant to Council Decision 2008/381/EC of 14 May 2008 to provide up-to-date, objective, reliable and comparable information on migration and asylum to EU institutions, authorities and institutions of the Member States as well as the public opinion, in order to support the policy-making process in the EU. The work of the EMN is coordinated and co-financed by the European Commission in cooperation with the national contact points (EMN NCPs) set up by each EU Member State and Norway.

The final electronic version of the national report (in Polish as well as English) will be available on the website www.emn.gov.pl .

EDITOR::

Marcin Wrona

DISCLAIMER:

The report was drawn up by the European Migration Network in Poland. The opinions expressed in it do not necessarily align with the point of view of the institutions that are part of the EMN and the European Commission. These entities are also not connected to any conclusions formulated in the report.

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Introduction

Based on own research conducted in the 1980s, an American scientist found that migrants who arrived in Silicon Valley caused an increase in innovation and job creation and improved the business environment. Other research shows that immigrants are more entrepreneurial than locals. ²

Similar correlations exist in Poland. This is the reason why there are many strategies aiming to attract startups and innovative entrepreneurs from Poland and third countries. The main focus of the Responsible Development Strategy,³ adopted by the government in February 2017, was on the creation of special aid programmes dedicated to such companies. However, there are no separate visa categories for startup founders – they must apply for a general residence permit for the purpose of pursuing economic activity. Startups founded by foreigners are not yet the subject of public debate, but are a very important issue for the Polish government, especially in recent years.

The most important component for creating a startup ecosystem in Poland is the "Start in Poland" programme. It is dedicated to Polish entrepreneurs, however, one of its elements is the "Poland Prize" programme, which aims to strengthen the innovative character of the Polish economy by supporting the transfer of new ideas from abroad. The programme is a government initiative and aims to promote Poland as a first choice country in Central and Eastern Europe for foreigners who found startups.

A distinguishing feature of the programme is to assist foreign startups in making the decision to come to Poland and start business here. The ultimate goal of the programme is to integrate foreign startups with the Polish ecosystem, so that they can function and build their position on an equal footing with Polish companies.

Government support for innovation is horizontal and provides for legal, financial and tax assistance for innovative activities across the country. The tax relief package, gradually implemented since 2016 under the so called Acts on innovativeness⁴ has created attractive conditions for R&D activity in Poland. The Poland of today boasts good infrastructure, industry, tradition of inventiveness and services for startups. Poland's another advantage is the presence of a number of venture capital funds, as well as effective spending of public resources to support the best projects with growth potential. However, some challenges do exist in Poland: lack of a well-functioning network of entrepreneurs and participation in international cooperation networks, lack of management skills among the management, lack of ways to test ideas, lack of infrastructure access, no familiarity with Polish law, as well as complicated procedures and bureaucracy.

- Development [PARP] states that over half of the start-ups were established by immigrants, most of them by people from India and China. One-third of Silicon Valley scientists and engineers are immigrants. Document Krzysztof B. Matusiak [ed.], Innovations and transfer of technology. Dictionary of terms, PARP 2011 available at https://www.parp.gov.pl/storage/publications/pdf/dobre%20praktyki%20projektu%20pmk.pdf.storage/publications/pdf/dobre%20praktyki%20 projektu%20pmk.pdf.
- Beuchamp M., Kruczkowska E., Polityki wizowe dla startupów,

Startup Poland

- 3. Responsible Development Strategy [SRD] until 2020 (with a perspective until 2030) was adopted by the Council of Ministers on February 14, 2017. The SRD is an update of the medium-term national development strategy, i.e. the National Development Strategy 2020. It is a binding, key document of the Polish state in the area of medium and long-term economic policy.
- **4.** The Act of November 4, 2016, amending certain acts specifying the conditions for conducting innovative activities (Journal of Laws of 2016, item 1933) and the Act of November 9, 2017, amending

1

Contextual overview of the business environment required to start a business in Poland

1.0 Contextual overview of the business environment required to start a business in Poland

The issue of innovation in the Polish economy, and thus attracting startups and supporting innovative activities in the economy, has been one of the priorities of subsequent Polish governments for over a decade. It is worth mentioning here many operational programs and legislative initiatives, which also in the past were an element supporting innovation.5 An example is the Operational Program Innovative Economy, implemented since 2007, which is a tool for entrepreneurs who intend to implement innovative projects related to research and development, modern technologies, investments of high importance for the economy or the implementation and use of information and communication technologies. However, the implemented solutions were at no stage aimed at acquiring only external capital or increasing the interest of foreigners in operating on an innovative market in Poland.

The overall system of instruments to support innovative activity and reinforce the presence of innovative Polish companies on foreign markets was developed under the Operational Programme Smart Growth 2014–2020 and other operational programmes at national and regional level. The support under operational programmes is divided into aid for R&D projects and measures dedicated to creating innovative emerging companies. Separate from the support stages of creating innovation, the concept of support concentration is implemented in priority areas. Particular attention at national and regional levels is given to sectors listed in the national smart specialisation strategy.⁶

certain acts to improve the legal environment for innovative activities (Journal of Laws of 2016, item 1933). U. of 2017, item 2201)

5. Declaration of the Deputy Minister of Infrastructure and Development from 2015: "Raising the level of innovation in the economy is a key objective of the development policy of our country and the entire European Union. One of the three priorities of the EU strategy until 2020 is the so-called intelligent growth means the development of an economy based on knowledge, i.e. one that does not copy modern technologies, but creates them "after: https://www.

Since February 2017, the binding and key document of the Polish state in the area of medium- and long-term economic policy, which is also the basis for changes in the development management system, including binding strategic documents (strategies, policies, programs) is the Responsible Development Strategy [SRD]. The strategy presents a new development model - responsible, socially and territorially sustainable development. It is based on individual territorial potential, investments, innovations, development, exports and highly processed products. The new development model assumes a departure from the current support for all sectors / industries in favor of supporting strategic sectors that may become the engines of the Polish economy. Its fundamental challenge is to rebuild the economic model of Poland in order to make it more innovative. efficiently using the resources of physical and human capital.

By implementing the assumptions presented in the Strategy, the Government supports enterprises that introduce innovations, both domestic and foreign. An example of such activities is introducing lower taxes or simplifying the conditions for establishing such enterprises. Preferences for this type of company are included in the set of Acts on innovation. The amendments to the provisions of 2016 and 2017 introduced many changes, including:

- it raises the amount of tax relief for research and development to 100% (and 150% for Research and Development Centres).
- clarifies and expands the catalogue of costs qualifying for the R&D relief (including assets other than fixed assets and forms of employment other than contract of employment). Research

funduszeeuropejskie.gov.pl/strony/wiadomosci/rozwoj-innowacyjno-sci-przedsiehiorstw-w-latach-2014-2020/

- 6. National smart specializations are industries the development of which will ensure: creating innovative socio-economic solutions, increasing the added value of the economy and increasing its competitiveness in the international arena. More at: https://krajoweinteligentnespecjalizacja.pl/
- 7. The Act of November 4, 2016, amending certain acts specifying the conditions for conducting innovative activities (Journal of Laws

and Development Centres will receive a broader catalogue of costs, including those related to real estate).

- it enables some of the enterprises active outside of special economic zones to benefit from the R&D relief
- it extends until 2023 the exclusions under double taxation of limited companies and limited partnerships with share capital engaged in R&D activity,
- it facilitates startup funding clarifies the method of taxing loans convertible into shares,
- enables the Polish Agency for Enterprise Development (PARP)⁸ and the National Centre for Research and Development NCBR⁹ to use financial instruments and provide repayable financial aid (e.g. guarantees and equity support). So far, only PARP could provide non-repayable financial aid and loans, while NCBR had only limited ability to create companies.
- it extends the scope of activity of special purpose entities created by universities and scientific institutes of the Polish Academy of Sciences,
- it enables universities and scientific institutes of the Polish Academy of Sciences to create companies to manage research infrastructure (also jointly and together with research institutes),
- it provides the Ministry of Science and Higher Education with legal instruments to monitor the fortunes of doctoral students (similarly to current solutions for monitoring the professional careers of graduates)."10
- Moreover, on 2 August 2019, the President signed an amendment to the Commercial Code. The amendment introduces a new company type simple public limited company ("Prosta Spółka

Akcyjna¹¹"). This may significantly contribute to the development of startups in Poland and enable easier establishment of startups and capital raising. The most important elements distinguishing the new entity - Simple Joint Stock Company - are as follows:

- no barriers to entry (1 PLN):
- very quick digital registration (24 hours);
- digitalisation of company procedures (adopting resolutions via e-mail or during a videoconference);
- full use of human capital (e.g. shares for work and
- simpler management of company finances (e.g. no "frozen" share capital);
- no public company status and restrictive obligations;
- no stock exchange quotations, but an option to convert into a public limited company to enter the stock exchange:
- flexible and straightforward structure of company bodies (e.g. no mandatory supervisory board);
- simplified company liquidation.¹²

Poland does not have legally defined concepts of "startup" and "innovative entrepreneur" - it uses EU definitions. Taking into account the process of setting up a new company in Poland, it looks as follows.

All the above-mentioned applications can be submitted online, the verification process takes a few hours; online submission of the above documents is free of charge. A big share of business support instruments is indirectly directed to startups via innovation centres or accelerators, which select

^{8.} Polish Agency for Enterprise Development, PARP

^{9.} National Centre for Research and Development, NCBR

^{11.} Act of 19 July 2019 amending the Act - the Code of Commer-

GRAFIKA

Proces zakładania nowej firmy w Polsce



new companies and then cooperate with them by transferring their financial resources. The institutional environment of startups includes several groups of entities, such as innovation centres (business incubators, technology incubators, science and technology parks, technology transfer centres), accelerators and enterprises. There are also coworking offices operating in Poland, which host numerous startup events, workshops, trainings, exhibition days, etc. These are, for example, Google Campus, Brain Embassy, The Heart Warsaw.¹³

Special economic zones play an important role in creating a climate for the development of startups. There are 14 of them in Poland and they are separate areas of the country in terms of administration, where investors may conduct business activity, receiving regional aid in the form of exemption from income tax (CIT or PIT) on income from specific activities. The objective of special economic zones is to accelerate the development of regions by attracting new investments, developing export and creating new jobs.

Particular attention at national and regional levels is given to sectors listed in the national smart specialisation strategy. National smart specialisations are selected in cooperation with business, the scientific community, administration and society. Areas designated as smart specialisation must create added

value and affect other economic sectors.14

Having in mind the potential of startups, during the creation of the Strategy for Responsible Development emphasis was placed on implementing dedicated support programmes for this group of innovators. The most important element for creating the startup ecosystem is the "Start in Poland" programme. The programme creates favourable conditions for startups at every stage of their development, starting from incubation and acceleration, through development and international expansion. Start in Poland is the biggest startup programme in Central and Eastern Europe and consists of many various components. The programme's budget is PLN 3 billion. With the programme, about 1500 innovative startups will be established in Poland within 7 years.

Startup Poland foundation is a Polish NGO and a think-tank dedicated to raising awareness of startups in Polish public administration. It represents Polish startups in legislative processes. It also works with Allied for Startups, an organisation which develops regulations to facilitate the development of startups across Europe. In 2016, together with 15 European non-profits, it established the European Startup Network which creates a common voice for European startup ecosystems. It also helps Polish startups prepare to enter the European market.

art, 35, which will enter into force on March 1, 2020.

^{12.} See: https://businessinsider.com.pl/firmy/prosta-spolka-akcyjna-dla-startupow-podpis-prezydenta/zn42vkt

The map of the Polish ecosystem can be found at the following address: https://www.startup.pfr.pl/pl/ekosystem-innowacji.

^{14.} More about national smart specialisations may be found online

One of the key elements of Start in Poland is the Scale Up programme. The programme includes participation of startups from areas such as: financial technologies, pharmaceutical biotechnology, bioeconomy, cybersecurity, smart city, industrial internet, microelectronics, smart plastics, artificial intelligence and space technologies. The aim of the programme is to provide expert and financial support for startups and enable them to establish contacts with large companies, including those state-owned. Accelerators act as an intermediary between startups and large companies. There are 10 acceleration

programmes: Mitef Poland, Pilot Maker, Space3ac Intermodal Transportation, Startup Spark, KPT Scale Up, Idea Global, Huge Thing, Gammarebels, Impact Poland, Aip Industrylab.

The above figure leads to the conclusion that most startups offer big data solutions. Analysing large data sets is difficult, but it can yield a lot of valuable information. Another service offered by 14% of startups is the Internet of Things. The next position is taken by the broadly understood analytics. Other services that are most popular among startups are financial services and marketing technologies.

FIGURE 1
Startups offering a specific type of products (top 5) in 2018.

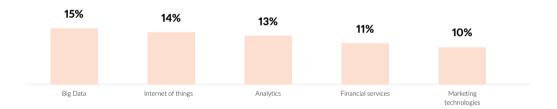


FIGURE 2
Sources of funding used by startups in 2018.
Source: own elaboration based on Polish Startups. Report 2018.



Looking at where startups raise capital from, it is worth noting that 68% of them invest their own funds. At the same time, 40% of startups active in Poland fund their business from one of the programmes coordinated by the Polish Agency for Enterprise Development or the National Centre for Research

and Development, 37% of startups get funds from venture capital funds, 30% from an accelerator and 26% from a business angel. Only 10% of startups raise funds for their activities from strategic industry investors and 9% from loans. 20% financed their activities in 2018 from other sources.

2

Legal frameowrk for the presence of startups and innovative companies from third countries on the Polish market

2.0 Legal framework for the presence of startups and innovative companies form third countries on the Polish market

The most important component for creating a startup ecosystem in Poland is the "Start in Poland" programme. It is addressed to Polish entrepreneurs, however. it comprises as one of its elements the "Poland Prize" programme, aiming to strengthen innovation of the Polish economy by supporting the transfer of new ideas from abroad. The programme is a government-led initiative aiming to promote Poland as a first choice country in Central and Eastern Europe for foreign founders of new startups. A distinguishing feature of the programme is to provide assistance to foreign startups in making the decision to come to Poland and start business here. The ultimate goal of the programme is to integrate foreign startups with the Polish ecosystem, so that they can function and build their position on an equal footing with Polish companies.

"Poland Prize" is the first Polish programme designed to attract foreign startups. Under a pilot programme, the Polish Agency for Enterprise Development (PARP) selected operators who showcased the most experience in working with foreign startups. They are tasked with identifying and assessing whether an idea could be commercialised and accelerate talent.

The six operators chosen for this task were:

- "Space3ac" Enterprise managed by Blue Dot Solutions;
- "The Prize" an acceleration programme created by the Startup Hub Polska foundation;
- "Huge Thing" a programme for startups dealing with financial and marketing technologies;
- Gdańsk Entrepreneurship Foundation:
- AD Ventures with the Entrepreneurial Poland Intermarium Accelerator;
- Brinc Limited with a "Brinc" project for IT startups;

""Poland Prize" supports foreign startups already at the moment when their founders decide to come and do business in Poland, and then helps them to settle and start their economic activity there. For such projects, a dedicated visa procedure is being developed. Additionally, a body will be created to support foreigners in their day-to-day activity, both related to moving to a new country and to starting a company. Apart from expert support, startups may apply for a grant of up to PLN 200 000. Startups can also establish business relations with investors and industry partners. Those who invest in Poland will be evaluated in terms of: the innovativeness of the proposed solutions and ideas, estimated value of the solution, potential for growth and running a business on other markets. In order to invite a company to participate in the programme, it will be necessary to refer to the letter of intent from the Polish side. e.g. from a VC fund or an industry partner, and to show interest in the start-up offer. The acceleration process will cover activities aimed at expanding the Polish innovation ecosystem, i.e. mentoring, legal and accountancy consulting, as well as specialist technology consultancy services and networking. Startups will be supported in attracting investors, obtaining external financing or winning potential customers.

Six starting platforms were selected for the new edition and the call for the incubation phase started in Q1 2019. The pilot covers financing for 102 projects for the total amount of PLN 78 million. Activities related to the development of the wider startup environment are recognised in innovation research at the EU level (EIS 2018). In the latest report, the block of indicators "innovation friendly environment" saw a 44.9% increase (after Malta and the Netherlands). In 2010–2017, the highest growth indicator of this block was in Finland (96.5%) and Poland (88.1%). 15

Considering the legalisation of stay of foreigners who found startups, they may stay in Poland on the

15. "Three years of responsible development", Summary report on the implementation of Responsible Development Plan and Strategy in

basis of a temporary residence permit for the purpose of conducting business activity. To obtain this permit, the foreigner must conduct business activity in Poland and meet the following requirements:

- they must have:
 - a. health insurance within the meaning of the provisions of the Act of 27 August 2004 on healthcare benefits financed from public funds or a document confirming that the insurer will cover the medical expenses incurred in the territory of the Republic of Poland:
 - b. a stable source of regular income sufficient to cover their living costs and those of dependent family members:
 - a consent of the competent authority to work in a certain position or in a specific profession if the obligation to obtain such consent is required by separate provisions;
- the foreigner has a guaranteed place of residence in Poland;
- the entity running a business:
 - a. in the fiscal year preceding the submission of an application for a temporary residence permit issued for the purpose of conducting business activity had revenue not lower than 12 times the average monthly remuneration in the voivodship where the seat of the company is located or the entity resides, for the third quarter of the year preceding the submission of the application, as announced by the president of Statistics Poland under Article 30(2) of the Act of 26 October 1995 on certain forms of supporting housing construction (Journal of Laws of 2013, item 255), or it has employed for an indefinite period of time and on a full-time basis, for a period of at least 1 year preceding the submission of the application, at least 2 Polish citizens or foreigners referred to in Article 87(1)(1) to (9) of the Act of 20 April 2004 on the promotion of employment and labour market institutions; or

b. proves that it possesses the means required to meet the criteria specified in point (a) in the future, or that it conducts activities that will allow it to meet these criteria in the future, in particular those contributing to an increase in investments, transfer of technology, introduction of beneficial innovations or the creation of new jobs.

A temporary residence permit for the purpose of conducting business activity is also granted to a foreigner whose purpose of stay is to perform work by holding a position in the management board of a limited liability company or a joint-stock company which they have created or whose shares they have taken up or acquired.

Even if the startup / emerging company does not generate revenue or has no impact on level of employment, the foreigner can still be granted a temporary residence permit, if they can demonstrate that their business activity is highly innovative. Startups are innovative in nature, so it is not difficult to meet the requirement. It should also be mentioned that some categories of foreigners, including EU citizens / citizens of EFTA/EEA countries / citizens of Switzerland and third-country nationals who have permanent residence in Poland. beneficiaries of international or national forms of protection, students (with temporary residence permit for the purpose of studying), spouses of Polish citizens or persons residing for the purpose of family reunification, may undertake and carry out economic activity under the same rules as Polish citizens.

3

Conditions for entering the Polish market for startups and innovative companies from third countriest

3.0 Conditions for entering the Polish market for startups and innovative companies from third countries

As mentioned before, in order to establish a startup in Poland, a foreigner must have a temporary residence permit for the purpose of carrying out economic activity. Such permit is issued for up to 3 years by the competent voivode of the place of the foreigner's economic activity. In the case of appeals, the relevant institution is the Head of the Office for Foreigners. In the case of complaints, the appeal bodies are courts - the Regional Administrative Court and the Supreme Administrative Court. The Polish legislation specifies that the processing time for such cases is up to 60 days. The differences between the maximum processing time specified in Polish legislation and the average processing time in practice - which is much longer - are due to the fact that the number of applications has significantly increased recently and the institutions dealing with the applications have insufficient human resources.

A startup founder may act as an employer, but there are no specific rules in Polish legislation stating this fact. Third-country nationals employed at startups legalise their residence in Poland on the basis of general permits provided for employment (temporary residence and work permits granted in accordance with Article 114(1) or Article 127(1) (for highly skilled workers) of the Act on foreigners). Employees who are third-country nationals are also entitled to work in Poland if their residence is based on a valid visa (with some restrictions concerning the purpose of issuing the visa) or a visa-free regime, if applicable, and if they have a valid work permit, if required. Some categories of foreigners mentioned in Article 87(1) of the Act of 20 April 2004 on employment promotion and labour market institutions, including beneficiaries of international protection and of other forms of protection, holders of various types of permanent residence permits, citizens of EU/EEA Member States and their families, are exempt from the obligation to have a work permit.

There are challenges related to startups entering the Polish market. One such challenge is the need to prove that the startup/enterprise is innovative. As already mentioned, a third-country national obtaining a temporary residence permit for the purpose of conducting economic activity must prove to the entity carrying out economic activity the income generated in the tax year preceding the application for a certain level of income or that they maintain employment at a specific level (which is impossible to prove in the case of newly established enterprises) or - as an alternative - that they have sufficient financial resources to meet the above conditions in the future or are making efforts to meet them in the future, in particular contributing to increasing investments, technology transfer, innovations or job creation. It may considered as a challenge for the executive bodies responsible for issuing decisions on granting and withdrawing residence permits. The evaluation of a startup's innovativeness and development potential is usually carried out based on a business plan and the documentation concerning the startup, as provided by the third-country national. The Border Guard is not sufficiently prepared to assess such documentation, especially taking into account the fact that the criteria for the idea or product's "innovativeness" are quite vague and difficult to define.

Another challenge is the processing time for temporary residence permit applications, which has significantly increased in recent years due to a serious increase in the number of applications submitted with a simultaneous shortage of staff. A third-country national remains in a precarious situation until a residence permit is obtained, and certain restrictions concerning their travels (including business travels) are imposed when the procedure is prolonged. They can remain in the country until a decision is issued if they submitted the application during legal stay and left Poland. However, for return or travel through Schengen states, they must obtain a visa or comply with the visa-free regime.

Individual cases are interesting, illustrating how the procedures for obtaining visas work that will allow their holders to set up a startup in Poland. For this purpose, four possible scenarios of running startups in Poland by third-country nationals are presented below.

Highly qualified worker prior to coming to Poland

The first case concerns Vihaan. Vihaan is a highly qualified specialist from India with a master's degree from the University of Delhi, currently living in Delhi. For a few months, he has been working there in an IT company, but in the nearest future he plans to start his own business. He already has a business plan for an app based on services, which – in his opinion – may be a success in Poland. His goal is to come to Poland and set up a company. Vihaan has three options in Poland:

- A) 1. Find an employer 2. Obtain a work permit 3. Obtain a work visa 4. Obtain an EU Blue Card 5. Start a new business (however, the possibility to start and carry out economic activity is limited to the following forms: limited partnership, limited partnership with share capital, limited company and public limited company, as well as taking up or acquiring their shares or stocks, unless international agreements provide otherwise) 6. Obtain an EU Blue Card (if he continues to work) or obtain a temporary residence permit for the purpose of conducting economic activity.
- B) 1. Find an employer 2. Obtain a work permit 3. Obtain a work visa 4. Obtain a temporary residence and work permit 5. Start a new business (however, the possibility to start and carry out economic activity is limited to the following forms: limited partnership, limited partnership with share capital, limited company and public limited company, as well as taking up or acquiring their shares or stocks, unless international agreements provide otherwise) 6. Obtain a temporary residence permit for the purpose of conducting economic activity.
- C) 1. Obtain a visa for conducting business in Poland 2. Start an economic activity in Poland 3. Obtain a temporary residence permit for the purpose of conducting economic activity.

Highly qualified worker residing in the territory of the EU

Another noteworthy case study involves a third-country national who has already resided in the EU and who is a highly qualified worker. Amel is

a Tunisian citizen working for B Solutions, a biotechnology company in Poland. She has an EU Blue Card or other national permit for highly qualified workers organised by her employer. After two years of working for the company, she feels ready for a new challenge. She would like to start her own company in the same sector, which would offer modern solutions for waste recycling based on innovative solutions, and she would like to stay in Poland. Amel must take two steps: 1. Register a company (however, the possibility to start and carry out economic activity is limited to the following forms: limited partnership, limited partnership with share capital, limited company and public limited company, as well as taking up or acquiring their shares or stocks, unless international agreements provide otherwise) 2. Obtain a temporary residence permit for the purpose of conducting economic activity.

Highly qualified employer prior to coming to Poland

Another noteworthy case involves a third-country national from outside the EU, who has already started a company in his country of origin. Sergey from Minsk, Belarus, is the owner of a production company Icomp Technologies which has just started the production of electronic components in the Internet of Things sector. The company has already sent some experimental products to the markets of third countries, such as Japan and Malaysia. On the basis of this initial success, it has been decided to move the company to an EU Member State in order to further develop its activities. Sergey needs to take the following three steps: 1. Obtain a work permit in Poland 2. Obtain a worker visa (Article 60(1) and (6) of the Act on foreigners) 3. Obtain a temporary residence permit for the purpose of employment by a foreigner delegated by a foreign employer in the territory of the Republic of Poland.

Highly qualified student residing in the territory of the EU

The last interesting case involves a PhD candidate or an MA student, a third-country national, currently studying in the EU. Auri, who is a PhD candidate from the Dominican Republic, studies in the field of biotechnology research at a Polish university. Parallel to her studies (beyond the PhD contract), Auri was conducting research on fermentation and obtained results that were not yet known in the scientific world. Auri has discovered that reaction between

the agent tested and a specific enzyme may have a specific influence on human skin regeneration. She was approached by a potential investor who saw the potential of her discovery in the medical cosmetology sector. Auri would like to register a company in her Member State and to conduct further necessary research in order to register the patent and start production at the next stage. There are three options for her further actions:

- A) 1. Obtain a temporary residence permit for the purpose of higher education in third cycle studies
 2. Register economic activity (under the same conditions as Polish citizens)
 3. Obtain another temporary residence permit for the purpose of continuing third cycle studies
- B) 1. Obtain a temporary residence permit for the purpose of higher education in third cycle studies
 2. Register economic activity (under the same conditions as Polish citizens)
 3. Obtain a temporary residence permit for the purpose of conducting economic activity.
- C) 1. Stay legally in Poland as a student 2. Obtain a temporary residence permit related to the fact that she is a graduate of a Polish university and is looking for a job in the territory of the Republic of Poland or plans to start an economic activity

in this territory (the requirement of having a work permit is not applicable) 3. Register a company (however, the possibility to start and carry out economic activity is limited to the following forms: limited partnership, limited partnership with share capital, limited company and public limited company, as well as taking up or acquiring their shares or stocks, unless international agreements provide otherwise) 4. Obtain a temporary residence permit for the purpose of conducting economic activity.

4

Attracting start-ups and innovative companies from third countries to Poland

4.0 Attracting start-ups and innovative companies from third countries to Poland

The main incentive that attracts foreigners from third countries to Poland is, as already mentioned, the "Poland Prize" programme. Under the pilot programme, the Polish Agency for Enterprise Development (PARP) has selected operators who had the biggest experience in terms of cooperation with foreign startups. Their tasks include recognition, assessment of whether a given idea has a chance to be implemented and talents acceleration. The sources of funding are EU funds and the Operational Programme Smart Growth (2014-2020). The "Poland Prize" programme covers so called soft-landing (i.e. facilitating arrival in Poland and living in the country and establishing a company), accelerating (including mentoring, trainings, consulting, networking) and financial support for product development. The programme targets startups with a high technological potential. So far, six programme operators were selected, who will hire over 100 foreign startup teams. The search for startups covered different foreign markets, such as Eastern European and Middle Asian countries, as well as startup centres, such as London, Stockholm and Berlin. The programme targets startups with a high technological potential, in which shares will belong to a person who does not have a Polish citizenship and to entities in which at least one management Bboard member is a foreigner. The selected six operators collaborate with big companies. Together they choose startups and assist them in developing their products.

It is worth looking at the rights that startup founders from third countries have and at the incentives used by the government and the private sector to attract them.

1. The rights of startup founders

Facilitation in obtaining a permanent residence permit

soft-landing (i.e. facilitating arrival in Poland and living in the country and establishing a company), accelerating (including mentoring, trainings,

- consulting, networking) and financial suport for product development;
- Labour market facilitations for family members: according to the applicable law - no special procedures:
- Access to employment: according to the applicable law - no special procedures;
- Possibility of bringing a family as part of family reunification: according to the applicable law - no special procedures.

2. Incentives (government and private)

• Entry facilitations:

- possibility to apply for a visa directly at a consular post, on the date agreed with the consul (closest possible);
- immediate processing of applications to shorten the visa wait period;
- simplifying the list of required supplementary documents:
- campaign and fixed incentive
- campaign and fixed incentive introduced by State
- in case of funds and by Private entities operators

Loans, funds

- from financial programmes under the same conditions as Polish citizens;
- introduced as part of campaigns and permanent solutions
- State transferes funds to operators and then to selected startups

· Collaborations with business:

- the "Poland Prize" programme involves collaboration with business
- introduced as part of campaigns
- -the accelerator programme

· Access to incubators / consulting services

- access to all "Start in Poland" programmes The programme creates favourable conditions for startups at every stage of their development, starting from
- introduced as part of campaigns and fixed incentives:

- implemented by PARP

• Financial support for administrative costs

- up to PLN 200,000 in grants for a single startup
- Introduced as part of campaigns
- the accelerator programme
- provided to all

Training services

- the "Poland Prize" programme covers soft-landing (i.e. facilitating arrival in Poland and living in the country and establishing a company), accelerating (including mentoring, trainings, consulting, networking) and financial support for product development
- introduced as part of campaigns
- the accelerator programme provided to all

Tax incentives

- the government's tasks in supporting innovation are horizontal and provide for the best legal, financial and tax assistance in order to carry out innovative activities across the country
- the tax relierfs package, interoduced successively since 2016 under the Act on innovativeness, has enabled attractive conditions for R&D activities in Poland. Entrepreneurs may deduct the cost of R&D from their income, and entrepreneurs which are R&D centres benefit from bigger tax reliefs, Every year more and more taxpayers take advantage of this relief. In 2017, 1,090 taxpayers benefited from the relief, compared to 528 in 2016.
- In October 2018, the Parliament approved a new framework agreement for entrepreneurs who commercialise intellectual property rights arising from their own R&D activity or from R&D purchased from another entity and patented by the taxpayer.
 the tax relief on innovation consists in preferential taxation (5%) of incom obtained from the sale of intelletual priesty rights or products generated on
- fixed incentive
- provided by State to all

the basis of IP assets.

Poland does not offer funds strictly dedicated for startups from third countries. They may benefit from funding under the Start in Poland programme and from venture capital funds. Another element of the Start in Poland programme is the system of support for the private equity / venture capital market. The Polish Development Fund (Polski Fundusz Rozwoju, PFR) is the main implementer of the programme,

offering funding for innovative startups through financial intermediaries – PE/VC funds. Together with private investors, the PFR supports the earliest stage, the seed stage, the first implementation and the development and expansion stage.

There are problems causing slower development of the startup community compared to the Western European countries. Until 5 years ago, there was no startup ecosystem in Poland, so it is still a new subject. However, there is great potential in the form of engineers, including from the IT industry.

One of the problems is the lack of funds for the development of the business idea. Financial issues are the first to come to mind when we think of barriers hindering the development of startups. Without an appropriate financial base it is impossible to make serious investments, carry out effective promotion activities and develop a project team. There are various ways of overcoming the lack of resources for setting up and launching a startup; by looking for public subsidies, participating in grant competitions, looking for venture capital and private equity funds, addressing business angels or seeking support from business incubators and accelerators. These last two forms are based mainly on consulting, mentoring and organisational assistance, but obtaining financing is also possible. In the case of IDEA Global Accelerator - created as a result of cooperation between the Polish Agency for Enterprise Development and Ideo Sp. z o.o. as part of the governmental programme Start in Poland - the support amount was PLN 200,000 for a single startup. Thanks to non-returnable funds, new companies can quickly move on to the next stages of developing their innovative projects.

Another challenge new startups face is the lack of business contacts. Having an extensive network of contacts is one of the most important intangible resources that help achieve success in business. Guarantees and recommendations by entities recognised on the market open the door for companies and institutions, support the process of recruiting valuable employees and create an opportunity for a cost-effective cooperation. Usually, startups face the problem of anonymity, resulting from the specific nature of this business model. Startup is a young initiative which has not yet had the opportunity to exist on a wide market and to build recognition and relations in the business world. The problem may be

solved with accelerators and experienced companies they cooperate with. It is their representatives who help to establish contacts, facilitate reaching decision-makers in large companies, which can become partners in developing innovative projects or key customers. Idea Global Accelerator managed to attract several partner companies for the supported startups, including Autosan, Aviva, Microsoft, Olimp Labs, Orange, Play, PBS Bank, Spar, Sephora, PricewaterhouseCoopers, Signal Iduna and Port Aerodrome Rzeszów-Jasionka.

Lack of managerial and organisational skills is a significant problem among startup founders. Contrary to appearances, creating a startup is not only about proposing an innovative product. To succeed commercially, organisational skills and managerial competences are required. Entrepreneurial but unprofessional management works at the stage of developing a new concept of a product or service, however shaping a business model requires moving to a higher level of competence. Otherwise, even the most promising company has little chance to develop. Polish startup founders are aware of the need to have relevant qualifications. According to this year's report by StartUp Poland, young entrepreneurs asked about gaining knowledge most often mentioned "training in marketing (49%), mentoring (41%) and management training". Seeing the demand, accelerators and incubators organise training sessions and workshops for supported companies conducted by experienced practitioners. They employ mentors and specialists from areas such as law, finance or marketing. Thanks to them, entrepreneurs acquire skills in business management and shape managerial competences. There are also many activities in the field of brand creation as well as opportunities for presenting ideas publicly. An example is Startup Demo Day, established on 30 November 2018 in Rzeszów, during which representatives of several startups presented projects to investors and potential customers.

Another barrier to startup development is the lack of possibility to test ideas in market conditions. The inability to test a product concept or prototype is what limits startups. It often results in launching a solution which is not entirely developed and generates problems from the very start. Customer dissatisfaction with quality has a negative impact on the image of a young company. Under the

acceleration programme, it is possible to check the solution before it is marketed. A good example here is the mobile application "Activy", which, through gamification, encourages people to use bicycles for commuting to work. The concept based on the use of "Activy" app was implemented at the Polish branch of Microsoft and succeeded in encouraging employees to commute to work by bicycle. This success allowed the aforementioned company to build trust towards the application and gave an opportunity to develop new business contacts. It was also a time for introducing additional functions and corrections making the product ready to be offered to other customers at home and abroad.

Another development problem faced by start ups is the lack of access to infrastructure. This barrier is particularly serious for startups operating outside the IT area, e.g. in the chemical or biotechnology sectors. To create quality medicines or cosmetics, it is necessary to have advanced and expensive equipment and laboratories whose purchase is beyond the reach of a fledgling enterprise. In such a case, the support of a partner, which will allow such an enterprise to make use of the partner's developed infrastructure, is invaluable. Startups test their ideas, make inventions and develop product concepts using the resources and experience of their partners. Amutali Suplements. Nanova or LifeGel are examples of companies which obtained access to specialist laboratories of Olimp Lab through IDEA Global. Hence, it was possible to create and improve a specialist synbiotic based on turmeric, a line of natural cosmetics based on the combination of nanoparticles of precious metals with natural extracts and oils as well as innovative hydrogel which helps scientists to maintain 3D cell cultures. The support system for such type of entities offers increasingly efficient programmes aiming to overcome the problems of startup ecosystems. Acceleration of carefully selected projects, which combines financial and organisational as well as advisory support, seems to be one of the most effective ways to speed up startup development. Therefore, startups participating in acceleration win additional opportunities of dynamic development and success on the market.

Startup founders also have poor knowledge of the Polish law. Lengthy and often unintelligible procedures, language and economic reality do not make the decision to come to Poland to do business any

easier. Moreover, foreigners are frequently not aware of the opportunities offered by the Polish startup ecosystem, hence Poland is not considered the first choice destination for an innovative business. The Deloitte report "Diagnosis of the start-up ecosystem in Poland" confirms those conclusions.¹⁶

The economy may benefit in many aspects from the fact that new companies, especially foreign, are being established. First of all, they offer new jobs. In the US, startups provide almost half of jobs of the entire economy. This is very important, especially if we are searching for development opportunities for young Poles who are highly qualified and willing to work. Startups also create opportunities for attracting foreign capital to the country. The large number of technologically advanced companies in Poland should draw the attention of investors to the domestic market. Moreover, Poland is becoming recognised as a very dynamically developing technological hub not only in Central and Eastern Europe but also in the world. This is something of real value. The StartUp HUB Poland foundation gets involved in attracting such projects to Poland. Many elements are already present in Poland, including good infrastructure, great creative industries, very good startup-related services. Currently, there is a lot of venture capital as well as a public finance leverage supporting the best projects with global growth potential. Startups may obtain support from BRIdge family programmes implemented by the National Centre for Research and Development along with investment funds. They allocate money for the so-called pre-incubation, which means a research and analysis team to confirm the technological and business hypotheses of a given project. Before a project is launched on the market as a startup, many analyses can be carried out to

confirm whether the project is relevant or not. The BRIdge Alfa fund does all that. Investments under a venture fund, e.g. Giza Polish Ventures, are also possible, however the National Centre for Research and Development offers assistance in the form of money for technology development. Last year, the www.startuphub.pl website featured approximately 700 innovative projects which had a chance to transform into startups. Almost half of them originated in Ukraine. 32 best projects were selected from among them. These were subjected to detailed business, technological, patent, legal, regulatory and financial analyses to single out nine projects which would become startups.

5

Case studies
- foreign startups
in Poland

5.0 Case study – foreign start-ups in Poland

Poland has operating projects from Romania, Latvia, the Kaliningrad region and Ukraine. The majority of startup founders come from Ukraine. Those best established include: CallPage, Betegy and Framewhere.

CallPage¹⁷ was established in April 2015 by three Ukrainian nationals (Ross Knap, Sergey Butko and Andriy Tkachiv). It is a website widget which detects when a potential customer visits the website and screens a pop-up offering a free phone call from the company representative within 28 seconds. The first version of the project was developed using own savings. After two months, AIP Seed Capital and angel investors invested approximately PLN 180 000. Subsequently, in 2016, the project received additional funds from the bValue venture capital fund in the amount of PLN 2,000,000. In July 2018, CallPage acquired investors such as TDJ Pitango Ventures. Innovation Nest and Market One Capital who jointly invested PLN 17,000,000. These funds are intended for expanding activity in foreign markets. Today, the startup generates 700,000 connections per month, has 3,200 business clients and 3,400,000 people seeing this widget every month. The brands cooperating with Callpage include: Audi, Seat, Škoda, Volkswagen, BMW, Toyota, Medicover, Orange, Gowork.pl, Murapol, Intrix, Tax Care and PWC.

The following startup, The Betegy¹⁸, was set up in Poland in November 2012 also by two Ukrainian nationals (Alex Kornilov and Vitaly Yatsunyk). It is an application which shows football forecasts based on statistics and algorithms, and presents updated sports information. It is used by individuals who bet on football matches. It was initially created with its founders' own funds and after a couple of months the project received additional funding from Jens Spyrka from Bmp Holding AG and Stefan Bielau. In 2013, Betegy concluded a contract with

ESPN allowing ESPN to offer football forecasts and guidelines based on the startup's data to its users. In the same year, Betegy expanded its activity from forecasting the results of 5 football leagues to 22 matches. In May 2014, Betegy, as the first company of that type in the world, entered the Chinese games and lotteries market, signing a 3-year collaboration contract with SunLoto, one of China's largest lottery operators and owner of the Wozhongla. com brand. At the moment, the startup's partners include companies such as the aforementioned ESPN and Wozhongla.com as well as Fortuna Zakłady Bukmacherskie, Global Media Group, Sport1, Favourit, Matchbook or Ringier Axel Spriniger.

Framewhere ¹⁹ was also established by two Ukrainian citizens (Bogdan Tyskyy and Taras Gopko) soon after their arrival in Poland. It is a service for searching for and booking photographers and cameramen. It enables people to find them, depending on the needs, time limits or location. In 2017, it was looking for financial support to achieve its predefined goals: becoming a leader on the Polish market for photography and videography services by end-2017 and entering the European market in 2018.

Polskie Górnictwo Naftowe i Gazownictwo is also actively involved in attracting foreign startups. Together with Startup Hub Poland they invited a group of foreign startups offering energy solutions. About 400 companies enrolled, and 8 startups got into the final round. Their innovative energy solutions included, e.g., a new technology for producing ball valves; IT solutions to support sales and customer care in the construction sector; treating water of metals and oils; generating extra power from gas pressure differential; and reduction of exhaust emissions in engines, boilers and industrial blast furnaces.

Also local authorities are willing to collaborate with innovative enterprises from abroad. The

^{18.} See: https://betegy.com/

Marshal's Office of the Lubelskie Voivodeship is one example. NLAB: Nevada-Lubelskie Acceleration Bridge programme is one of the projects that have contributed to the development of the startup ecosystem in the Lubelskie Voivodeship. It is implemented by the Lubelskie Voivodeship and the U.S. state of Nevada. The programme aims to support entrepreneurs from the region in developing their business potential. It also helps to raise funds. The startups that participated in the programme succeeded in the American market. Another example of local authorities partnering up with foreign investors are Canadian entrepreneurs from Windsor, Essex. They met with representatives of machine and automotive companies as well as representatives of incubators. Among the speakers, the local government of the Lubelskie Voivodeship also invited Israeli startup representatives to share their knowledge on company development. Meetings were held with startups from the Lubelskie Voivodeship, providing a forum to exchange experiences, discuss good practices and offer cooperation possibilities.²⁰

In 2018, 26% of foreigners worked in Polish startups, compared to 28% in 2017. Nearly half (46%) of them are from Ukraine. Ukrainians are followed by Americans, Britons, Belarusians and Russians. As much as 73% of startups have foreigners on their teams. Interestingly, there is virtually no citizen of China working in any startup, despite their large population in Poland.

Mention should also be made of the Polish startups that succeeded abroad. One of such companies is Samurai Labs²¹. Their objective is to prevent cyber violence using artificial intelligence - machine learning and reasoning. Harmful content (hate speech, violence) on portals, forums or in games is automatically blocked and then reported to the moderator. A similar procedure is applied in the case of paedophile activity - the programme identifies such content, blocks the abuser and notifies the administrator who informs relevant institutions. Samurai is able to detect violence in 84%. Among the co-owners of the the startup is Robert Lewandowski. The company has been present in the United Kingdom, where it supports the British police in fighting aggression online. It

is particularly the area of Al and the Internet of Things in which Polish startups operating abroad specialise. Another example is DataWalk. They work with the U.S. Department of Justice and use analytical tools that enable, among other things, detecting cases of fraud and preventing money laundering. Apart from this, the company offers many other solutions, including more rapid responses or data prioritisation. Currently, the startup's worth is estimated at ca. PLN 91 million. Another example of a startup which succeeded abroad is Grape Up, working with the Dutch Ministry of Infrastructure and Water Management. They also work with Dell and Volkswagen. The startup specialises in producing software that uses the cloud native technology for transferring existing IT systems to the cloud as well as providing IT consulting services. Advanced Protection Systems has also been successful. It's a technology startup focused on preventing potential threats posed by unmanned aerial vehicles. The company developed a system for detecting and neutralising drones. Their solutions are used by Norwegian airports, Czech security services and companies from the PZU Group.

The Polish startup with the largest among of funding ever granted - USD 39 million - is the Kraków-based company Brainly²². It is a type-A educational social network for pupils to help each other in many fields of knowledge. The platform is free of charge, and its success is owed to the moderators, who are very prompt in verifying the accuracy of answers. The number of unique users exceeds 100 million per month, and the service is available in 35 countries across the globe, including Russia, France and South American countries. However, the portal's activities spark controversies, as some answers are left unverified, incl. due to emerging opinions about the morally questionable service of homework by students, or the lack of response to the questions sent. Despite negative opinions, the interest in the website is high.

See: https://www.dziennikwschodni.pl/lubelski-biznes/lubelskiestartupy-z-apetytem-na-wiecej.n.1000247278.html

^{21.} See: https://www.samurailabs.a

^{22.} Za: https://brainly.pl



Summary

Summary

According to Deloitte's forecasts, in 2023, the startup potential in Poland will be worth PLN 2.2 billion in added value. These enterprises will employ over 50,000 people, and their revenues will amount to PLN 757 million. This makes it an important sector for the Polish economy. The Polish government recognises this importance, as confirmed in the Strategy for Responsible Development, the main focus of which is on launching dedicated support programmes for this group of innovators. Poland offers no specific visa category for startup founders - and this might be a disincentive for establishing new innovative businesses here. Not knowing the Polish law, lengthy and often vague procedures, language and economic reality do not make the decision to do business in Poland easier. Moreover, foreigners are frequently unaware of the opportunities offered by the Polish startup ecosystem, hence Poland is not deemed the best place for running an innovative business. On the other hand, the government creates many incentives, the most prominent being the "Poland Prize" programme. "Poland Prize" supports foreign startup founders already at the moment when they decide to come and do business in Poland, and then helps them to settle and start their economic activity there. A dedicated visa procedure is being developed for these projects. Furthermore, dedicated assistance is available to support foreigners in their daily challenges - both those related to moving to a new country and those related to starting a business. Apart from expert support, startups may apply for a grant of up to PLN 200,000. Startups can also establish business relations with investors and industry partners. Those who enter the Polish market will be evaluated in terms of: the innovativeness of the proposed solutions and ideas, estimated value of the solution, potential for growth and running a business on other markets. In order to invite a company to participate in the programme, it will be necessary to refer to the letter of intent from the Polish side, e.g. from a VC fund or an industry partner, and to show interest in the start-up offer. The acceleration process covers activities aimed at expanding the Polish innovation ecosystem, i.e. mentoring,

legal and accountancy consulting, s well as specialist technology consultancy services and networking. This is why startups are offered aid in attracting investors. raising external funds or reaching potential customers. Government efforts to support innovation are horizontal and focus on ensuring the best legal, tax and financial conditions for running an innovative business throughout the country. The tax reliefs package, introduced successively since 2016 in the Act on innovativeness, offers attractive conditions for R&D activity in Poland. Entrepreneurs may deduct the cost of R&D from their income, and entrepreneurs who are R&D centres benefit from even greater tax reliefs. Every year more and more taxpayers take advantage of this relief. In 2017, 1.090 taxpavers benefited from the relief, compared to 528 in 2016. It should be borne in mind that the economy may benefit in many aspects from the fact that new companies. especially foreign, are being established. First of all, they offer new jobs. In the US, startups provide almost half of jobs of the entire economy. The large number of technologically advanced companies in Poland should draw the attention of investors to the domestic market. Moreover, Poland is becoming recognised as a very dynamically developing technological hub not only in Central and Eastern Europe but also in the world.

Poland needs a wider public debate on startups for foreigners. Certain legal changes should also be introduced regarding visas for startup founders. A greater emphasis should be put on promoting startup companies among third-country nationals, e.g., through wider promotion of the "Poland Prize" programme, and even greater tax reliefs should be ensured, thus providing an incentive for foreigners to invest in Poland. It is worth mentioning that every startup means new jobs, which in turn creates demand for new goods and eventually leads to increased employment.

