

PRO HR

IMMIGRATION UPDATE

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CITIZENS OF CERTAIN COUNTRIES TO RECEIVE RESIDENCE DECISIONS WITHIN 60 DAYS

The Polish Ministry of the Interior and Administration has published a draft amendment to the Act on Foreigners aimed at accelerating residence permit proceedings initiated by nationals of selected countries.

Under the proposed rules, nationals of selected highly developed countries applying for temporary residence permits will benefit from what is called the “tacit approval” procedure. This means that if the relevant authority does not issue a negative decision within the prescribed timeframe, the application will be deemed approved and the proceedings considered concluded. With temporary residence permit applications, the authorities will have 60 days to process the application. Once this period expires, the proceedings will be considered completed. If the application contains any formal deficiencies, the 60-day period will begin only after those deficiencies have been remedied.

In practice, it may still take some additional time to issue the formal decision and print the residence card, but the overall duration of the proceedings is expected to be significantly shorter than the current processing times.

Residence permits issued under this procedure will generally be valid for two years, with the following exceptions:

- Temporary residence permit for higher education – valid for 15 months
- Temporary residence permit for trainees – valid for six months
- Temporary residence permit for volunteers – valid for one year

The tacit approval procedure will not apply where the foreign national is listed in the Schengen Information System (SIS) or in the register of foreigners whose stay in Poland is considered undesirable. It will also not apply if, during the information exchange process, the relevant authorities identify circumstances indicating a threat to national security, public security, or public order.

The government has not yet published the list of countries whose nationals will be eligible for this procedure. However, it is expected that preferential treatment will apply to nationals of countries such as Australia, New Zealand, Singapore, Israel, the United Kingdom, the United States, Canada, Taiwan, South Korea and Japan.

EMPLOYMENT IN POLAND WITHOUT A WORK PERMIT – BUT ONLY FOR SELECTED FOREIGN NATIONALS

According to the draft legislation, nationals of selected countries will also be allowed to work in Poland without obtaining a work permit.

Although the eligible countries have not yet been officially confirmed, it is expected that this exemption will apply to the same group of nationals who will benefit from the 60-day residence permit procedure, namely citizens of Australia, New Zealand, Singapore, Israel, the United Kingdom, the United States, Canada, Taiwan, South Korea and Japan.

In addition, employers will be required to notify the authorities of the employment of a foreign national who is exempt from the work permit requirement.

Apart from the new exemption introduced by the draft, this notification obligation will also apply to foreign nationals who are already exempt from obtaining a work permit, including:

- full-time students at Polish universities;
- graduates of Polish universities;
- holders of the Pole's Card (Karta Polaka);
- foreigners residing in Poland on the basis of family reunification;
- spouses of Polish citizens holding a temporary residence permit as a family member of a Polish citizen.

The notification must be submitted within seven days from the commencement of employment, similarly to the current notification obligation applicable when employing Ukrainian citizens.

In practice, if the amendment enters into force, an employer will either be required to obtain a document authorising employment (i.e. a work permit or a declaration on entrusting work to a foreign national) or submit an employment notification. Consequently, every foreign national working in Poland will be covered by one of these legal employment compliance mechanisms.

It is estimated that the proposed change will affect only around 1% of all work permits issued in Poland. Therefore, it is unlikely to significantly improve the overall work permit processing times, which currently may reach up to eight months.

The draft amendment also proposes several additional changes, including:

- limiting the maximum validity of a work permit to three years, but not beyond the expiry date of the foreign national's passport;

- extending the deadline for examining appeals in work permit and work declaration cases from 30 to 60 days;
- exempting posted drivers from outside the EU, EEA and Switzerland from the work permit requirement when performing transport operations in Poland for up to 30 days per year;
- introducing a minimum and maximum number of working hours under civil-law service contracts, ranging from 40 to 184 hours;
- introducing a new ground for refusing a work permit, namely where the employer obstructs the administrative proceedings;
- clarifying the existing ground for refusal in cases where a foreign national previously obtained a work permit or work declaration but did not commence employment in Poland.

A final assessment of the proposed changes will only be possible once the legislative process has been completed. The draft legislation may still be amended during the parliamentary process.

PLANS TO EXTEND TEMPORARY PROTECTION FOR UKRAINIAN NATIONALS UNTIL 4 MARCH 2028

The European Union intends to extend temporary protection for Ukrainian nationals until 4 March 2028. Should this extension be adopted at the EU level, the corresponding Polish regulations governing UKR status will also be extended.

At the same time, it has been decided to restrict access to temporary protection for newly arriving Ukrainian men of military age, namely those aged 25 to 60. To qualify for temporary protection, Ukrainian nationals will be required to present a certificate confirming their exemption from military mobilisation. Without such confirmation, temporary protection will not be granted.

Individuals who do not qualify for temporary protection will still be able to remain in Poland under the general immigration rules, for example under the visa-free regime, with the possibility of applying for a temporary residence permit, including on the basis of employment in Poland.

These changes will not affect individuals who already benefit from temporary protection on the date the new rules enter into force.

GEORGIAN, COLOMBIAN AND VENEZUELAN NATIONALS TO LOSE THE RIGHT TO WORK UNDER THE VISA-FREE REGIME

The Polish government plans to restrict the use of the visa-free regime by nationals of Georgia, Colombia and Venezuela where their entry into Poland or stay in the country is related to employment..

The new rules will not apply to individuals who enter Poland before the amendments take effect. Those individuals will continue to be subject to the current regulations

and will remain entitled to work in Poland during their visa-free stay.

Once the new provisions enter into force, nationals of these countries wishing to take up employment in Poland will be required to obtain a Polish national visa before entering the country. As a result, the time required to commence employment in Poland will increase considerably.

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