

# PRO HR

## IMMIGRATION UPDATE

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## NEW DRAFT AMENDMENTS TO THE TACIT APPROVAL RULES FOR CONCLUDING CASES – A BROADER LIST OF COUNTRIES AND NEW SOLUTIONS FOR CERTAIN FOREIGN NATIONALS

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The Ministry of the Interior and Administration (MSWiA) has published a new draft amendment to the Act on Foreigners, introducing a procedure for the tacit conclusion of proceedings. The draft changes the rules on determining which countries meet the conditions for inclusion on the list of countries whose citizens will be able to benefit from the tacit procedure.

Under the current draft, a country does not have to be a member of the Organisation for Economic Co-operation and Development (OECD) in order to be included on the list. Inclusion will be possible provided that the country meets all of the following conditions:

1. its citizens are exempt from the visa requirement when crossing the external borders of Member States for stays not exceeding 90 days in any 180-day period, in accordance with Annex II to Regulation (EU) 2018/1806;
2. its gross domestic product per capita, based on purchasing power parity, exceeds:
  - a. for OECD member states – USD 50,000 in international dollars, according to the most recent data published by the International Monetary Fund; or

- b. for non-OECD member states – USD 75,000 in international dollars, according to the most recent data published by the International Monetary Fund;

3. fewer than 2% of people from that country who hold Polish residence permits have been issued a return (deportation) order.

Previously, only OECD member states could be included on the list. The MSWiA draft therefore potentially broadens the list of countries whose citizens may be eligible for the tacit procedure, including Singapore, the United Arab Emirates and Taiwan.

Nevertheless, according to the explanatory memorandum to the draft, the following countries currently meet the conditions for inclusion on the list: Australia, Japan, the Republic of Korea, the United States and the United Kingdom.

In addition, the draft introduces provisions whereby, following the tacit conclusion of the proceedings, a foreign national will be able to download an electronic certificate from the MOS system confirming that the proceedings have been concluded. The original draft did not provide for a mechanism allowing a foreign national to obtain a document confirming that their case had been concluded.

Furthermore, the draft removes the provision limiting the validity period of a residence permit for a student obtained through the tacit procedure to 15 months. If the amendment enters into force in its current form, permits will be issued for a period of two years, i.e. the maximum period for which a permit obtained through the tacit procedure may be issued.

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## HIGHER MINIMUM WAGE FROM 2027

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A regulation providing for an increase in the minimum monthly wage to PLN 4,950 and the minimum hourly rate to PLN 32.30 has been published in the Journal of Laws.

In the context of employing foreign nationals, the change will be relevant to immigration documents obtained by employers and foreign nationals in 2027, including work permits, declarations on entrusting work to a foreign national, and temporary residence and work permits.

In the case of these documents, the employment of a foreign national will not be permitted if the remuneration specified therein is lower than the minimum wage applicable under the regulation.

The regulation will enter into force on 1 January 2027.

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