

# GMS Flash Alert

## Immigration

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### Poland – Changes Afoot for Foreign Nationals with Implementation of EU Directive into Polish Law

Draft legislation in Poland provides for the introduction of numerous changes to the rules of entry and stay of foreign nationals in Poland.<sup>1</sup> The changes will affect, among other things, the form of residence applications and regulations concerning the EU Blue Card.

Directive (EU) 2021/1883 of the European Parliament and of the Council of 20 October 2021 on the conditions of entry and residence of third-country nationals for the purpose of highly-qualified employment and repealing Council Directive 2009/50/EC<sup>2</sup> required member states of the European Union to adopt legal arrangements on a national level governing entry, rights, and residence permits for the purpose of employment in occupations that require higher professional skills – EU Blue Cards – as well as entry, residence conditions, and rights of their family members. In order to comply with the above obligation, it was necessary to introduce amendments to existing Polish statutes (e.g., the so-called “Foreigners Act”).

#### WHY THIS MATTERS

With implementation of the EU Directive into Polish law, once in effect, Poland’s statutes will be aligned with European law and principles, creating a clearer legal environment for Poland’s immigration authorities and for employers bringing foreign nationals into Poland to live and work. Moreover, the foreign nationals themselves will have greater clarity and certainty in terms of the rules in force that apply to them.

The planned amendments to the provisions of the Foreigners Act may indeed be seen as a positive development by some: enhancing the actions and responses of the authorities and facilitating the foreign nationals’ everyday life in the country’s society and economy.

## Key Amendments

Below we highlight some key planned amendments.

- Changing the definition of “higher professional skills” to include qualifications stemming from both higher education and professional experience.
- New entitlements for EU Blue Card holders related to the new institutions: short-term and long-term mobility, which permit the EU Blue Card holder to move to another EU member state on preferential terms; additionally, the stay of the EU Blue Card holder in another EU member state as part of the above-mentioned mobility will count as a stay entitling the individual to obtain EU long-term resident status.
- A special family reunification procedure for family members of foreign nationals benefiting from long-term mobility as EU Blue Card holders.
- The right for EU Blue Card holders to conduct business activity on the same terms as Polish citizens.
- New notification obligations imposed on EU Blue Card holders concerning (i) a change of the entity engaging the individual for the performance of work, or (ii) a cessation of meeting the requirements for granting the EU Blue Card, or (iii) the start of long-term mobility.

## Change in the Residence Permit Procedure

Currently, applications for temporary residence permits, permanent residence permits, and long-term EU resident permits should be submitted in writing, during a personal appearance at the voivodeship office. The above procedure will be changed such that the electronic submission of these applications will be required, with use of an online service via the Case Handling Module (in Polish: *Moduł Obsługi Spraw – MOS*).

The obligation to appear in person will be maintained in order to take fingerprints and present documents necessary to confirm the data contained in the application, requested by the voivode. The stamp in the foreign national's passport, which currently serves as a confirmation of the application submission, will be replaced by a confirmation certificate.

## Extension of the Validity Period of Documents Issued to Beneficiaries of International Protection

Under the currently applicable provisions, the validity period of travel documents issued to beneficiaries of international protection, i.e., foreign nationals who have been granted refugee status or subsidiary protection in the territory of the Republic of Poland, is two years, and the validity period of residence cards depends on the type of protection granted. Foreign nationals who have been granted refugee status are issued residence cards for a period of three years and persons eligible for subsidiary protection are issued residence cards for a period of two years, while other member states generally apply longer validity periods.

In view of the growing number of beneficiaries of international protection in Poland, it was considered justified to extend the validity period of travel documents and residence cards issued to foreign nationals who have been granted refugee status in the territory of the Republic of Poland.

According to the proposed regulations, travel documents would be issued for a period of up to five years. In turn, residence cards for foreign nationals who are granted subsidiary protection in the territory of the Republic of Poland would be issued for a period of up to three years.

## KPMG INSIGHTS

Employers and foreign nationals are advised to monitor the progress of legislative developments in respect of the amendments so that they can be prepared to act on the foreseen improvements and changes as soon as they enter into force.

KPMG in Poland will endeavour to keep readers of *GMS Flash Alert* informed of further relevant developments as they occur.

## FOOTNOTES:

1 For "Projekt ustawy o zmianie ustawy o cudzoziemcach oraz niektórych innych ustaw" (Draft act amending the Act on foreigners and certain other acts) see: <https://www.gov.pl/web/premier/projekt-ustawy-o-zmianie-ustawy-o-cudzoziemcach-oraz-niektorych-innych-ustaw13> .

2 See: <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX%3A32021L1883> . Also see "EU Blue Card – entry and residence of highly-qualified workers (from 2023)" at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=LEGISSUM:4559508> .

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## RELATED RESOURCE:

This article is excerpted, with permission, from "Amendment to the Foreigners Act" by Agnieszka Józwiak and Małgorzata Czyżewska, an online publication from the KPMG International member firm in Poland.

For the newsletter in Polish, click [here](#).

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**The information contained in this newsletter was submitted by the KPMG International member firm in Poland.**

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