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Warsaw, 30 December 2013

Item 1650

ACT

of 12 December 2013

on foreigners^{1, 2}

¹ The Act implements the provisions of:

- 1) Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third-country nationals (OJ L 149, 02.06.2001, p. 34; OJ Polish Special Edition, Chapter 19, Volume 4, p. 107);
- 2) Council Directive 2001/51/EC of 28 June 2001 supplementing the provisions of Article 26 of the Convention implementing the Schengen Agreement of 14 June 1985 (OJ L 187, 10.07.2001, p. 45; OJ Polish Special Edition, Chapter 19, Volume 4, p. 160);
- 3) Council Directive 2003/86/EC of 22 September 2003 on the right to family reunification (OJ L 251, 03.10.2003, p. 12, as amended);
- 4) Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air (OJ L 321, 06.12.2003, p. 26, as amended);
- 5) Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents (OJ L 16, 23.01.2004, p. 44, as amended);
- 6) 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 (OJ L 261, 06.08.2004, p. 19, as amended);
- 7) Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training or voluntary service (OJ L 375, 23.12.2004, p. 12, as amended);
- 8) Council Directive 2005/71/EC of 12 October 2005 on a specific procedure for admitting third-country nationals for the purposes of scientific research (OJ L 289, 03.11.2005, p. 15, as amended);
- 9) Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals (OJ L 348, 24.12.2008, p. 98);
- 10) Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment (OJ L 155, 18.06.2009, p. 17);
- 11) Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals (OJ L 168, 30.06.2009, p. 24, as amended);
- 12) Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA (OJ L 101, 15.04.2011, p.1, as amended);

SECTION I

General Provisions

Article 1. The Act lays down the principles and conditions governing entry into, transit through, residence on and departure from the territory of the Republic of Poland as they apply to foreigners, as well as the procedure and the authorities competent in these matters.

Article 2. The Act shall not apply to:

(1) members of staff of diplomatic missions and consular posts of foreign states and other persons treated equally under applicable laws, treaties or generally recognised international customs, on condition of reciprocity and subject to the requirement of holding by such persons documents proving that they perform functions entitling them to enter and stay in the territory of the Republic of Poland,

13) Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection (Text with EEA relevance) (OJ L 132, 19.05.2011, p.1);

14) Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, a uniform status for refugees or persons eligible for subsidiary protection and the scope of granted protection (OJ L 337, 20.12.2011, p. 9);

15) Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State (OJ L 343, 23.12.2011, p.1, as amended).

² The Act amends the following acts: the Act of 24 June 1920 on acquisition of real estate property by foreigners, the Act of 31 December 1959 on cemeteries and burial of the deceased, the Act of 10 April 1974 on population registration and identity cards, the Act of 6 April 1990 on the Police, the Act of 12 October 1990 on the Polish Border Guard, the Act of 20 December 1990 on the social insurance of farmers, the Act of 21 December 1990 on the profession of veterinarian and chambers of veterinary surgeons, the Act of 19 April 1991 on pharmaceutical chambers, the Act of 7 September 1991 on the education system, the Act of 20 June 1992 on entitlements to concessionary travel with public means of transport, the Act of 5 December 1996 on the profession of a physician and dentist, the Act of 6 June 1997 – the Code of Administrative Proceedings, the Act of 17 July 1998 on student loans and credits, the Act of 13 October 1998 on the social insurance system, the Act of 9 November 2000 on repatriation, the Act of 15 December 2000 on professional associations of architects, engineers and town planners, the Act of 11 April 2001 on patent agents, the Act of 22 June 2001 on the conduct of business in the field of production and sale of explosives, weapons, ammunition and military or police technology, the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland, the Act of 27 June 2003 on the social pension, the Act of 28 November 2003 on family benefits, the Act of 12 March 2004 on social assistance, the Act of 20 April 2004 on employment promotion and labour market institutions, the Act of 2 July 2004 on freedom of economic activity, the Act of 27 August 2004 on health care services financed from public funds, the Act of 27 July 2005 – Law on Higher Education, the Act of 16 December 2005 on products of animal origin, the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families, the Act of 22 July 2006 on animal feed, the Act of 16 November 2006 on stamp duty, the Act of 24 August 2007 on the participation of the Republic of Poland in the Schengen Information System and the Visa Information System, the Act of 7 September 2007 on the Pole's Card, the Act of 7 September 2007 on assistance for persons entitled to maintenance allowance, the Act of 18 March 2008 on principles of recognition of professional qualifications acquired in EU Member States, the Act of 2 April 2009 on Polish citizenship, the Act of 24 September 2010 on population registration, the Act of 15 April 2011 on education information system, the Act of 9 June 2011 on support to families and the foster care system, the Act of 1 July 2011 on the professional association of nurses and midwives, the Act of 15 July 2011 on the profession of nurses and midwives and the Act of 16 September 2011 on information exchange amongst law enforcement authorities of the EU Member States.

except for Article 23, Article 32, Article 58, Articles 60-63, Article 66(4) and (5), Articles 67-74, Article 78(1), Article 79(1) and (2), Article (80), Articles 90-92, Article 96 and Article 97;

(2) nationals of the European Union Member States, member states of the European Free Trade Association (EFTA) – parties to the Agreement on the European Economic Area and the Swiss Confederation, as well as members of their families who join them or reside with them.

Article 3. Terms used in the Act shall have the following meanings:

(1) asylum – asylum within the meaning of Article 90 of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (Dz. U. of 2012, item 680);

(2) foreigner – any person who does not have Polish citizenship;

(3) travel document – a document recognised by the competent authority of the Republic of Poland, authorising its holder to cross the border, which has been issued to a foreigner by a competent authority of a foreign state, a Polish authority or an international organisation or an entity authorised by a competent authority of a foreign state or a foreign authority of the state nature;

(4) professional experience – experience gained in the course of the employment, performing other gainful work or pursuing business activity in a particular profession;

(5) border – a border of the Republic of Poland within the meaning of Articles 1-3 of the Act of 12 October 1990 on the protection of the state border (Dz. U. of 2009, No. 12, item 67, as amended³);

(6) qualifications obtained on completion of higher education – qualifications obtained on completion of higher education with a positive result, attested by a diploma, certificate or other document issued by the competent authority of a higher education programme, i.e. a series of classes conducted by an educational institution recognised as a higher education institution by the state in which it is established, subject to the requirement that the duration of the studies necessary for them to be obtained is at least three years;

(7) local border traffic – the entry of foreigners into the territory of the Republic of Poland, to whom Regulation (EC) No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the Schengen Convention (OJ UE L 405 of 30.12.2006, p. 1, as amended) applies, and their stay in that territory;

(8) researcher – a foreigner holding at least an academic degree corresponding to the *magister* (Master of Arts or Master of Science) degree in the Republic of Poland or equivalent, authorising him/her to take up at least doctoral studies;

(9) temporary protection – protection within the meaning of Article 106(1) of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland;

(10) subsidiary protection – protection within the meaning of Article 15 of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland;

(11) Schengen states – states which fully apply the Schengen acquis;

³ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2010, No.164, item 1108, of 2011, No. 50, item 255 and No. 217, item 1280 and of 2013, item 852.

- (12) return – the return of a foreigner to his/her country of origin, country of transit or another third country to which the foreigner has decided to return and which has granted him/her a permit for entry;
- (13) user employer – a user employer within the meaning of Article 2(1) of the Act of 9 July 2003 on the employment of temporary workers (Dz. U. No. 166, item 1608, as amended⁴);
- (14) carrier – a natural or legal person, or an organisational unit without legal personality that, for economic purposes, carries persons by air, sea or land;
- (15) telecommunications network – a network within the meaning of Article 2(35) of the Act of 16 July 2004 – Telecommunications Law (Dz. U. No. 171, item 1800, as amended⁵);
- (16) refugee status – the status within the meaning of Article 13 of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland;
- (17) international airport transit zone – the area of an international airport located in the territory of the Republic of Poland, ranging from the board of the aircraft to the border checkpoint, covering also the airport apron and the airport terminals;
- (18) vocational training – an organised teaching process aimed at obtaining, supplementing or improving skills, professional or general qualifications, required to perform work, including employment-seeking skills;
- (19) telecommunications device – a telecommunications device within the meaning of Article 2(46) of the Act of 16 July 2004 – Telecommunications Law;
- (20) visa – a Schengen visa or a national visa;
- (21) national visa – the visa referred to in Article 18 of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the Gradual Abolition of Checks at Common Borders (OJ UE L 239 of 22.09.2000, p. 19, as amended), issued by a competent Polish authority;
- (22) Schengen visa – the visa referred to in Article 2(2)-(5) of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ UE L 243 of 15.09.2009, p. 1, as amended);
- (23) performance of work – the performance of work by a foreigner within the meaning of Article 2(1)(40) of the Act of 20 April 2004 on employment promotion and labour market institutions (Dz. U. of 2013, item 674, as amended⁶);

⁴ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2004, No. 96, item 959, of 2007, No. 89, item 589 and of 2009, No. 6, item 33 and No. 221, item 1737.

⁵ Amendments to the Act were promulgated in Dz. U. of 2004, No. 273, item 2703, of 2005, No. 163, item 1362 and No. 267, item 2258, of 2006, No. 12, item 66, No. 104, item 708 and 711, No. 170, item 1217, No. 220, item 1600, No. 235, item 1700 and No. 249, item 1834, of 2007, No. 23, item 137, No. 50, item 331 and No. 82, item 556, of 2008, No. 17, item 101 and No. 227, item 1505, of 2009, No. 11, item 59, No. 18, item 97 and No. 85, item 716, of 2010, No. 81, item 530, No. 86, item 554, No. 106, item 675, No. 182, item 1228, No. 219, item 1443, No. 229, item 1499 and No. 238, item 1578, of 2011, No. 102, item 586 and 587, No. 134, item 779, No. 153, item 903, No. 171, item 1016, No. 233, item 1381 and No. 234, item 1390, of 2012, items 908, 1203, 1256, 1445 and 1529 and of 2013, item 1635.

(24) performance of work in a highly skilled profession – the performance of work by a foreigner having skills attested to by higher professional qualifications, who, regardless of the legal relationship between the parties, performs work to the benefit or under the supervision of another person against remuneration;

(25) higher professional qualifications – qualifications obtained on completion of higher education or at least a five-year professional experience at a level comparable to the level of qualifications obtained on completion of higher education, required to perform work specified in the employment agreement or a job offer constituting an offer to conclude an agreement within the meaning of the provisions of the Act of 23 April 1964 – Civil Code (Dz. U. No. 16, item 93, as amended⁷).

Article 4. In cases which remain within the competence of a voivode, where a voivode is the authority competent to examine an appeal in matters regulated in this Act or the President of the Office for Foreigners is a higher authority, the provisions of Article 20 of the Act of 23 January 2009 on voivodes and government administration in voivodeships (Dz. U. No. 31, item 206, as amended⁸) shall not apply.

Article 5. 1. To proceedings in matters regulated by this Act which remain within the competence of consuls, the provisions of the Act of 13 February 1984 on the function of consuls of the Republic of Poland (Dz. U. of 2002, No. 215, item 1823, as amended⁹) shall apply, unless the Act provides otherwise.

2. To matters not regulated by the provisions of Section IV as regards the issuance, cancellation or revocation of national visas or their extension, or the extension of the period of the stay in the territory of the Republic of Poland of a foreigner covered by such visas, the provisions of Regulation (EC) No 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code), hereinafter referred to as "Community Visa Code", shall apply.

Article 6. 1. The authority issuing a decision or a ruling in proceedings under the Act may refrain from drawing up their justification in the part concerning the factual grounds, if it is justified by national security or defence, or the protection of public safety and order.

⁶ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2013, items 675, 829, 1291, 1623, 1645 and 1650.

⁷ Amendments to the Act were promulgated in Dz. U. of 1971, No. 27, item 252, of 1976, No. 19, item 122, of 1982, No. 11, item 81, No. 19, item 147 and No. 30, item 210, of 1984, No. 45, item 242, of 1985, No. 22, item 99, of 1989, No. 3, item 11, of 1990, No. 34, item 198, No. 55, item 321 and No. 79, item 464, of 1991, No. 107, item 464 and No. 115, item 496, of 1993, No. 17, item 78, of 1994, No. 27, item 96, No. 85, item 388 and No. 105, item 509, of 1995, No. 83, item 417, of 1996, No. 114, item 542, No. 139, item 646 and No. 149, item 703, of 1997, No. 43, item 272, No. 115, item 741, No. 117, item 751 and No. 157, item 1040, of 1998, No. 106, item 668 and No. 117, item 758, of 1999, No. 52, item 532, of 2000, No. 22, item 271, No. 74, item 855 and 857, No. 88, item 983 and No. 114, item 1191, of 2001, No. 11, item 91, No. 71, item 733, No. 130, item 1450 and No. 145, item 1638, of 2002, No. 113, item 984 and No. 141, item 1176, of 2003, No. 49, item 408, No. 60, item 535, No. 64, item 592 and No. 124, item 1151, of 2004, No. 91, item 870, No. 96, item 959, No. 162, item 1692, No. 172, item 1804 and No. 281, item 2783, of 2005, No. 48, item 462, No. 157, item 1316 and No. 172, item 1438, of 2006, No. 133, item 935 and No. 164, item 1166, of 2007, No. 80, item 538, No. 82, item 557 and No. 181, item 1287, of 2008, No. 116, item 731, No. 163, item 1012, No. 220, item 1425 and 1431 and Nr 228, item 1506, of 2009, No. 42, item 341, No. 79, item 662 and No. 131, item 1075, of 2010, No. 40, item 222 and No. 155, item 1037 and of 2011, No. 80, item 432, No. 85, item 458 and No. 230, item 1370.

⁸ Amendments to the Act were promulgated in Dz. U. of 2010, No. 40, item 230 and of 2011, No. 22, item 114, No. 92, item 529, No. 163, item 981 and No. 185, item 1092.

⁹ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2004, No. 173, item 1808, of 2007, No. 180, item 1280 and No. 181, item 1287, of 2008, No. 216, item 1367, of 2010, No. 81, item 531 and No. 167, item 1131 and of 2012, item 161.

2. It shall not be possible, however, to refrain from justifying a decision or a ruling in the part referring to the recognition of the Polish origin of a foreigner.

Article 7. 1. The authority

(1) conducting proceedings in cases concerning:

- (a) issuing a visa to a foreigner,
- (b) extending a visa issued to a foreigner or the period of stay covered by that visa,
- (c) granting a foreigner a temporary residence permit, permanent residence permit or a long-term resident's European Union residence permit, hereinafter referred to as a "long-term resident's EU residence permit",
- (d) obliging a foreigner to return to his/her country of origin,

(2) instituting checks in relation to a foreigner

– shall instruct the foreigner in writing in a language understandable to him/her about the procedure and its principles, as well as about the rights granted to him/her and obligations imposed on him/her.

2. As regards proceedings in matters concerning obliging a foreigner to return to his/her country of origin, the instruction referred to in paragraph 1 shall include also information about the possibility of:

- (1) bringing an action against the entity entrusting the performance of work and enforcing a judgement made against such an entity in relation to outstanding remuneration, also in the case of enforcing the decision on imposing the return obligation on the foreigner;
- (2) granting a foreigner a temporary residence permit for the duration of the criminal proceedings against the entity entrusting the performance of work in which the foreigner is the aggrieved party:
 - (a) as a result of a criminal offence consisting in entrusting the performance of work under conditions of extreme abuse referred to in Article 10(1) of the Act of 15 June 2012 on the consequences of entrusting the performance of work to foreigners residing unlawfully in the territory of the Republic of Poland (Dz. U., item 769),
 - (b) a minor foreigner not holding a valid document entitling him/her to stay in the territory of the Republic of Poland who has been entrusted the performance of work;
- (3) taking any other actions against the entity entrusting the performance of work, in particular notifying the competent authorities.

Article 8. 1. Applications relating to procedures regulated by this Act shall be drawn up in the Polish language.

2. Documents drawn up in a foreign language, used as evidence in proceedings conducted under the Act, shall be submitted together with their translation into the Polish language made by a sworn interpreter.

3. Applications submitted in proceedings in front of a consul and documents drawn up in a foreign language, used as evidence in proceedings under the Act conducted in front of a consul, shall be submitted in the Polish language or in the language indicated by the consul.

4. The first name and surname of the interpreter shall be indicated in the records of interrogations of foreigners submitting applications in matters regulated by this Act.

Article 9. 1. Letters concerning matters regulated by this Act shall be served to natural persons to addresses indicated by them or in any location where the addressee shall be found.

2. Letters addressed to foreigners deprived of their liberty shall be delivered via the administration staff of establishments in which they are placed.

3. Where a foreigner departs abroad, the provisions of Article 40(4) and (5) of the Act of 14 June 1960 – Code of Administrative Proceedings (Dz. U. of 2013, item 267), hereinafter referred to as “Code of Administrative Proceedings”, shall apply.

Article 10. To proceeding conducted under the Act Article 73(1) and (1)(a), Article 79(2) and Article 81 of the Code of Administrative Proceedings shall not apply if a foreigner who is a party to the proceedings is abroad and has not appointed an attorney residing in the territory of the Republic of Poland to represent him/her in the proceedings.

Article 11. 1. In the course of the proceedings conducted under the Act, Polish Border Guard officers may:

- (1) carry out a community interview, or
- (2) establish the place of residence of the spouse or another member of a foreigner’s family, as well as the place of residence of a person with whom the foreigner has family-like ties.

2. A community interview shall include gathering information concerning:

- (1) personal data of a foreigner against whom the proceedings referred to in Article 1 are conducted;
- (2) place of residence of the foreigner;
- (3) members of the foreigner’s family and persons with whom he/she lives in the same household;
- (4) performance of work or business activity by the foreigner;
- (5) taking up or continuing education or vocational training by the foreigner;
- (6) financial situation and living conditions of the foreigner;
- (7) undertaking by the foreigner actions that may affect the protection of public safety and order, or those that pose a threat to national security or defence;
- (8) other circumstances the existence of which could affect the outcome of the proceedings conducted in relation to the foreigner.

3. Where, as a result of the procedures referred to in paragraph 1, the information submitted by the foreigner was not confirmed, or the gathered information proved to be contradictory or raise doubts as to its authenticity, Polish Border Guard officers may check on the premises which the foreigner indicated as his/her place of residence. To checks on premises the provisions of Article 79(1) of the Code of Administrative Proceedings shall not apply.

4. A Polish Border Guard officer carrying out checks on the premises referred to in Article 3 has the right to:

- (1) enter the premises,
- (2) request to be presented with objects belonging to the foreigner and members of his/her family living with him/her,
- (3) request to be provided with explanations

- in order to prove that the foreigner resides in the premises being checked.

5. The foreigner or a third person, if the premises belong to such a third person, or another adult household member shall be present when the procedures referred to in paragraph 4 are being carried out. These procedures shall be undertaken and carried out between 6 a.m. and 10 p.m.

6. The procedures referred to in paragraph 4 shall be carried out by Polish Border Guard officers with the foreigner's or a third person's consent, if the premises belong to such a third person, or another adult household member's consent. These procedures shall be then documented.

7. Where the foreigner refuses to express his/her consent for the premises to be checked or hinders the performance of the procedures referred to in paragraph 4, or makes their performance impossible, it shall be deemed that the information about the actual place of residence of the foreigner has not been confirmed.

8. Where it is not possible to check on the premises for reasons beyond the control of the foreigner, Polish Border Guard officers shall notify thereof the authority conducting the proceedings and provide this authority with the information gathered in the course of carrying out the procedures referred to in paragraph 1.

Article 12. 1. The minister competent for internal affairs shall specify, by way of ordinance:

- (1) the manner of conducting a community interview by Polish Border Guard officers;
- (2) the place and time of conducting interviews referred to in subparagraph 1;
- (3) the form of the report from the interview referred to in subparagraph 1.

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account the need to conduct a community interview in such a way so as to enable gathering information necessary to conduct proceedings under the Act and ensure respect for the foreigner's privacy.

3. The minister competent for internal affairs shall specify, by way of ordinance:

- (1) the manner of carrying out checks by Polish Border Guard officers on premises referred to in Article 11(3);
- (2) documents authorising to carry out checks on premises referred to in Article 11(3), and the manner of documenting such checks.

4. In the ordinance referred to in paragraph 3, the minister competent for internal affairs shall take into account the purpose of carrying out checks on premises referred to in Article 11(4), and respect for privacy of individuals whom such checks concern.

Article 13. The following data and information concerning a foreign may be processed in registers and records kept under the Act:

- (1) the first name(s) and surname;
- (2) previous first name(s) and surname(s);
- (3) surname at birth;
- (4) sex;
- (5) father's name;
- (6) mother's first name and surname at birth;
- (7) date of birth, and in the absence of evidence of date of birth, the likely year of birth;
- (8) place and country of birth;
- (9) description:
 - (a) height in centimetres,
 - (b) colour of the eyes,
 - (c) distinctive features;
- (10) fingerprints;
- (11) citizenship;
- (12) nationality;
- (13) marital status;
- (14) education;
- (15) occupation;
- (16) national identification number;
- (17) number of the travel document;
- (18) identification of the entity ensuring the performance of work;
- (19) place of residence or stay;
- (20) phone number;
- (21) email address;

- (22) information on criminal records, criminal and misdemeanour offence proceedings conducted currently against him/her, as well as on decisions rendered against him/her in judicial or administrative proceedings;
- (23) identification number in the Universal Electronic System for Registration of the Population (PESEL);
- (24) image of the face;
- (25) information about residing in the territory of another European Union Member State for at least 18 months on the basis of a residence permit issued by that state with an annotation ("Niebieska Karta UE" ("EU Blue Card"));
- (26) data of a host referred to in Article 54(1).

Article 14. The foreigner's fingerprints shall be taken with the use of fingerprint cards or a device for electronic fingerprinting.

Article 15. 1. Current photographs of the foreigner attached to applications for granting him/her residence permits, applications for a national visa or applications for issuing documents for foreigners shall reflect, beyond reasonable doubt, the image of the foreigner's face, without a head covering and dark glasses. 2. A foreigner with congenital or acquired defects of the eye may attach to the application a photograph showing him/her in dark glasses. In such a case the application shall be accompanied by documents confirming disability, and – if it is not possible to present them – a certificate of the foreigner's disability.

3. A foreigner wearing a head covering in accordance with the principles of his/her religion may attach to the application a photograph showing him/her in such a head covering, as long as the image of his/her face is fully visible. In such a case the application shall be accompanied by the foreigner's statement confirming that he/she belongs to a religious community.

4. In justified cases, the application may be accompanied by a photograph showing the foreigner with his eyes closed, a facial expression other than the natural one or with an open mouth.

SECTION II

The Head of the Office for Foreigners

Article 16. 1. The Head of the Office for Foreigners, hereinafter referred to as the "Head of the Office", is the central body of government administration competent in the following matters:

- 1) the entry by foreigners into, transit through, stay in, and departure from the territory of the Republic of Poland;
- 2) the granting of refugee status;
- 3) the granting of subsidiary protection;
- 4) the granting of residence permits for humanitarian reasons or permits for tolerated stay;
- 5) the granting of asylum to foreigners;
- 6) the granting of temporary protection.

2. The minister competent for internal affairs shall supervise the Head of the Office.

Article 17. 1. The Prime Minister shall appoint the Head of the Office at the request of the minister competent for internal affairs, from among persons selected through an open competition.

2. The Prime Minister shall dismiss the Head of the Office at the request of the minister competent for internal affairs.

3. The minister competent for internal affairs shall appoint Deputy Heads of the Office at the request of the Head of the Office, from among persons selected through an open competition.

4. The minister competent for internal affairs shall dismiss Deputy Heads of the Office at the request of the Head of the Office.

Article 18. The position of the Head of the Office may be held by a person who:

- (1) holds a Master's or an equivalent degree;
- (2) is a Polish citizen;
- (3) enjoys full civil rights;
- (4) has not been convicted of an intentional offence or a wilful fiscal offence by a final judgment;
- (5) has managerial skills;
- (6) has at least 6 years of professional experience, including at least 3 years of experience in a managerial position;
- (7) has knowledge of the matters which remain within the competence of the Head of the Office.

Article 19. 1. Information about the vacancy for the position of the Head of the Office shall be announced by means of a vacancy notice placed in a generally accessible place in the seat of the Office for Foreigners, hereinafter referred to as the "Office", and in the Public Information Bulletin of the Office for Foreigners and the Public Information Bulletin of the Chancellery of the Prime Minister.

2. The notice shall include:

- (1) the name and address of the Office;
- (2) information about the position;
- (3) requirements under the law related to the position;
- (4) the scope of the duties;
- (5) information about the required documents;
- (6) deadline for and place of submitting documents;
- (7) information about the recruitment methods and techniques.

3. The deadline referred to in paragraph 2(6) may not fall earlier than 10 days from the date of publication of the notice in the Public Information Bulletin of the Chancellery of the Prime Minister.

4. The recruitment to the position of the Head of the Office shall be carried out by a team appointed by the minister competent for internal affairs, consisting of minimum three individuals whose knowledge and experience guarantee selection of the best candidates.

5. In the course of the recruitment process, the candidate's professional experience, knowledge necessary to perform the tasks related to the position which the recruitment process concerns and his/her managerial skills shall be evaluated.

6. At the request of the team the candidate's knowledge and managerial skills may be evaluated by an individual who is not a member of the team, but has the skills necessary to perform such evaluation.

7. A member of the team and a person referred to in paragraph 6 shall be obliged to keep confidential information concerning the individuals applying for the position, gathered in the course of the recruitment process.

8. The team shall select in the course of the recruitment process no more than three candidates who shall be presented to the minister competent for internal affairs.

9. The team shall draw up a recruitment report which shall include:

- (1) the name and address of the Office;
- (2) the composition of the team;
- (3) information about the position which the recruitment process concerned and the number of candidates;
- (4) the first names, surnames and addresses of no more than three candidates in the order corresponding to the extent to which they meet the requirements set out in the vacancy notice;
- (5) information on the recruitment methods and techniques applied;
- (6) reasons for the choice made or reasons for the failure to select a candidate.

10. The recruitment results shall be announced immediately in the Public Information Bulletin of the Office for Foreigners and the Public Information Bulletin of the Chancellery of the Prime Minister.

11. Information about the recruitment results shall include:

- (1) the name and address of the Office;
- (2) information about the position which the recruitment process concerned;
- (3) the first names and surnames of selected candidates and their places of residence within the meaning of the Act of 23 April 1964 – Civil Code, or information that no candidate has been selected.

12. A vacancy notice and recruitment results shall be published in Public Information Bulletin of the Chancellery of the Prime Minister free of charge.

Article 20. 1. The team conducting recruitment for the positions referred to in Article 17(3) shall be appointed by the Head of the Office.

2. To the procedure of conducting recruitment for the positions referred to in Article 17(3) the provisions of Article 18 and Article 19 shall apply.

Article 21. 1. The Head of the Office shall perform his/her duties with the assistance of the Office which is a government administration agency.

2. The tasks of the Office may be performed, besides its employees, by officers of:

- (1) the Internal Security Agency and the Foreign Intelligence Agency – pursuant to Article 56(2) and (3) of the Act of 24 May 2002 on the Internal Security Agency and the Foreign Intelligence Agency (Dz. U. of 2010 No. 29, item 154, as amended¹⁰);
- (2) the Government Protection Bureau – pursuant to Article 31(2)-(4) of the Act of 16 March 2001 on the Government Protection Bureau (Dz. U. of 2004 No. 163, item 1712, as amended¹¹);
- (3) the State Fire Service – pursuant to Article 28a(2) and (3) of the Act of 24 August 1991 on the State Fire Service (Dz. U. of 2013 items 1340 and 1351);
- (4) the Police - pursuant to Article 36(4) and (5) of 6 April 1990 on the Police (Dz. U. of 2011 No. 287, item 1687, as amended¹²);
- (5) the Polish Border Guard – pursuant to Article 41(2) and (3) of the Act of 12 October 1990 on the Polish Border Guard (Dz. U. of 2011 No. 116, item 675, as amended¹³);
- (6) the Military Intelligence Service and its soldiers – pursuant to Article 50(2) and (3) of the Act of 9 June 2006 on the Military Counter-intelligence Service and the Military Intelligence Service (Dz. U. No. 104, item 709, as amended¹⁴) and Article 15(2) and (3) of the Act of 9 June 2006 on the service of officers of the Military Counter-intelligence Service and the Military Intelligence Service (Dz. U. No. 104, item 710, as amended¹⁵).

3. The minister competent for internal affairs shall grant the Office, by way of decree, a statute defining the organisation of the Office, having regard to the scope of the responsibilities of the Head of the Office and the need to ensure the efficient functioning of the Office.

¹⁰ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2010, No. 182, item 1228 and No. 238, item 1578, of 2011, No. 53, item 273, No. 84, item 455, No. 117, item 677 and No. 230, item 1371, of 2012, item 627 and 908 and of 2013, items 628, 675, 1247 and 1351.

¹¹ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2004, No. 210, item 2135, of 2006, No. 104, item 708 and 711, of 2008, No. 66, item 402, of 2009, No. 22, item 120 and No. 85, item 716, of 2010, No. 127, item 857, No. 182, item 1228 and No. 238, item 1578, of 2011, No. 117, item 677, of 2012, item 664 and of 2013, items 444, 628, 675, 1270 and 1351.

¹² Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2011, No. 217, item 1280 and No. 230, item 1371, of 2012, items 627, 664, 908, 951 and 1529 and of 2013, items 628, 675, 1351 and 1635.

¹³ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2011, No. 117, item 677, No. 170, item 1015, No. 171, item 1016 and No. 230, item 1371, of 2012, items 627, 664, 769 and 951 and of 2013, items 628, 675, 829 and 1351.

¹⁴ Amendments to the Act were promulgated in Dz. U. of 2006, No. 218, item 1592, of 2007, No. 25, item 162, of 2009, No. 85, item 716, of 2010, No. 182, item 1228, of 2011, No. 22, item 114, No. 53, item 273 and No. 84, item 455, of 2012, item 707 and of 2013, items 628, 852 and 1247.

¹⁵ Amendments to the Act were promulgated in Dz. U. of 2009, No. 114, item 957, of 2010, No. 113, item 745, No. 182, item 1228, No. 230, item 1510 and No. 238, item 1578, of 2011, No. 117, item 677 and of 2013, items 675 and 1351.

Article 22. 1. The responsibilities of the Head of the Office shall include:

- (1) rendering decisions and rulings in the first instance and examination of appeals against decisions and complaints about rulings issued in the first instance by other authorities in matters regulated by:
 - (a) this Act,
 - (b) the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland,
 - (c) the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families (Dz. U. No. 144, item 1043, as amended¹⁶);
- (2) organising and running training in matters falling within the competence of the Head of the Office;
- (3) providing competent authorities of other Schengen states, via the Police Commander-in-Chief, with information on the legal and factual grounds for entry into the Schengen Information System for the purposes set out in Article 25 of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 between the Governments of the States of the Benelux Economic Union, the Federal Republic of Germany and the French Republic on the Gradual Abolition of Checks at Common Borders, hereinafter referred to as “Schengen Implementing Convention”;
- (4) control over the performance by voivodes of the tasks set out in the acts mentioned in subparagraph 1;
- (5) providing the competent authorities of other European Union Member States, at their request, with information concerning the temporary stay in the territory of the Republic of Poland of a foreigner referred to in Article 144, where he/she intends to continue or complete studies undertaken in the territory of the Republic of Poland;
- (6) acting as a national contact point for providing authorities of other European Union Member States with information on:
 - (a) granting a temporary residence permit to a foreigner holding a long-term resident's EU residence permit granted by another European Union Member State,
 - (b) refusal to grant a further temporary residence permit or revocation of a temporary residence permit to a foreigner holding a long-term resident's EU residence permit granted by another European Union Member State or to a member of that foreigner's family,
 - (c) granting a foreigner a long-term resident's EU residence permit, where he/she holds such a permit granted by another European Union Member State;
- (7) acting as the national contact point referred to in Article 12(2) of Regulation No 1931/2006 of the European Parliament and of the Council of 20 December 2006 laying down rules on local border traffic at the external land borders of the Member States and amending the provisions of the

¹⁶ Amendments to the Act were promulgated in Dz. U. of 2007, No. 120, item 818, of 2008, No. 216, item 1367, of 2010, No. 81, item 531, of 2011, No. 92, item 532 and of 2013, item 1650.

Schengen Convention, hereinafter referred to as “Regulation No 1931/2006”, and providing the competent authorities of states applying this Regulation and the European Commission with information stored in the record of cases of abuse of the local border traffic regime and penalties imposed for abuse of that regime, referred to in Article 17(3) of Regulation No 1931/2006;

(8) acting as a national contact point in the following matters:

- (a) providing information about the duration of the stay in the territory of the Republic of Poland of a foreigner holding a temporary residence permit for the purposes of highly qualified employment, where such information is necessary to obtain by that foreigner an EU long-term resident status in another European Union Member State,
- (b) acquiring information about the duration of the stay of a foreigner in another European Union Member State on the basis of the residence document referred to in Article 1(2)(a) of Council Regulation (EC) No 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ UE L 157 of 15.06.2002, p. 1, as amended), hereinafter referred to as “Regulation No 1030/2002” with an annotation “Niebieska Karta UE” (“EU Blue Card”), where such information is required to calculate the duration of a stay entitling to obtain a long-term resident's EU residence permit in the territory of the Republic of Poland,
- (c) providing information to other European Union Member States about granting or refusal to grant a temporary residence permit for the purposes of highly qualified employment in the territory of the Republic of Poland to a foreigner holding in another European Union Member State the residence permit referred to in Article 1(2)(a) of Regulation No 1030/2002, with an annotation “Niebieska Karta UE” (“EU Blue Card”),
- (d) acquiring from other European Union Member States information about granting or refusal to grant to a foreigner holding in the territory of the Republic of Poland a temporary residence permit for the purposes of highly qualified employment, the residence document referred to in Article 1(2)(a) of Regulation No 1030/2002, with an annotation “Niebieska Karta UE” (“EU Blue Card”),
- (e) providing the European Commission with statistics concerning the number of third-country nationals who have been granted temporary residence permits for the purposes of highly qualified employment, or who had such permits revoked, as well as the number of family members of such third-country nationals who have been granted temporary residence permits for the purposes of family reunification;

(9) providing the visa authorities in the Republic of Poland with the information and documents referred to in Article 16(3) of Regulation (EC) No 767/2008 of the European Parliament and of the Council 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (OJ L 218 of 13.08.2008, p. 60, as amended), hereinafter referred to as “Regulation No 767/2008”;

(10) acting as a national contact point in the following matters:

- (a) applying, at the request of a voivode, to the competent authority of another European Union Member State for information whether the foreigner is still covered by international protection in that Member State,

- (b) providing the competent authorities of other European Union Member States, at their request, with information whether the foreigner is still covered by international protection in the Republic of Poland,
 - (c) providing the competent authorities of other European Union Member States with information about granting to the foreigner international protection or assuming responsibility for international protection when the foreigner holds a long-term resident's EU residence permit in another European Union Member State;
- (11) performing the tasks defined in the Act and other separate laws and regulations.
2. The Head of the Office shall be a higher-level authority within the meaning of the Code of Administrative Proceedings in relation to the voivode in matters regulated by the acts referred to in paragraph 1(1).

SECTION III

The crossing of the border

Chapter 1

Rules for the crossing of the border

Article 23. A foreigner who crosses the border shall be obliged to be in possession of:

- (1) a valid travel document;
- (2) a valid visa or another valid document entitling him/her to enter into and stay in the territory of the Republic of Poland, if these are required;
- (3) a permit to enter another country or a permit for stay in another country, if such permits are required for transit.

Article 24. 1. Foreigners who are members of crews of ships arriving at Polish seaports, crossing the border for the purposes of going ashore and staying within the borders of the port town/city and the bordering gminas, shall be exempt from the visa requirement during the ship's stay in the port.

2. Foreigners referred to in Article 4(2) of Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ L 81 of 21.03.2001, p. 1, as amended), shall be exempt from the visa requirement when their entire stay in the territory of the Republic of Poland is no longer than 90 days.

Article 25. 1. A foreigner entering the territory of the Republic of Poland shall be obliged to:

- (1) justify the purpose and conditions of the planned stay;
- (2) be in possession of and produce, at the request of a competent authority:
 - a) a document certifying that he/she has health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds (Dz. U. of 2008, No. 164,

item 1027, as amended¹⁷) or a travel medical insurance for a minimum sum insured of EUR 30,000, valid for the period of the intended stay of the foreigner in the territory of the Republic of Poland, covering any expenses that may arise during his/her stay in this territory in connection with repatriation for medical reasons, urgent medical attention, emergency hospital treatment or death, in which the insurer undertakes to cover the costs of health services provided to the insured directly to the entity providing such services based on the bill issued by that entity – in case of entry to which the foreigner is authorised on the basis of a national visa,

- b) financial means sufficient to cover the costs of the intended stay and return to the country of origin or residence or the costs of transit to a third-country which will grant the foreigner a permit for entry, or a document certifying that he/she is able to lawfully obtain such means.

2. A foreigner entering the territory of the Republic of Poland on the basis of a visa for the purposes of performing work, who is not subject yet to medical insurance within the meaning of the provisions of the Act of 27 August 2004 on health care services financed from public funds, shall fulfil the obligation set out in paragraph 1(2)(a) by producing proof of travel medical insurance with a minimum sum insured of EUR 30,000, valid from the date of obtaining by the foreigner health insurance covering any expenses that may arise during his/her stay in this territory in connection with repatriation for medical reasons, urgent medical attention, emergency hospital treatment or death, in which the insurer undertakes to cover the cost of health services provided to the insured directly to the entity providing such services based on the bill issued by that entity – in case of entry to which the foreigner is authorised on the basis of a national visa.

3. The obligation to present financial means or documents certifying that the foreigner is able to lawfully obtain such means shall not apply to foreigners crossing the border:

(1) on the basis of:

- a) international treaties which provide for exemption of the foreigner from the obligation to be in possession of such means or the obligation to cover the costs of his/her stay by Polish state authorities or public bodies; or
- b) a repatriation visa, or
- c) a work visa, or
- d) a temporary protection visa, or
- e) a visa for the purposes of participation in proceedings concerning granting an asylum, or

¹⁷ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2008, No. 216, item 1367, No. 225, item 1486, No. 227, item 1505, No. 234, item 1570 and No. 237, item 1654, of 2009, No. 6, item 33, No. 22, item 120, No. 26, item 157, No. 38, item 299, No. 92, item 753, No. 97, item 800, No. 98, item 817, No. 111, item 918, No. 118, item 989, No. 157, item 1241, No. 161, item 1278 and No. 178, item 1374, of 2010, No. 50, item 301, No. 107, item 679, No. 125, item 842, No. 127, item 857, No. 165, item 1116, No. 182, item 1228, No. 205, item 1363, No. 225, item 1465, No. 238, item 1578 and No. 257, item 1723 and 1725, of 2011, No. 45, item 235, No. 73, item 390, No. 81, item 440, No. 106, item 622, No. 112, item 654, No. 113, item 657, No. 122, item 696, No. 138, item 808, No. 149, item 887, No. 171, item 1016, No. 205, item 1203 and No. 232, item 1378, of 2012, items 123, 1016, 1342 and 1548 and of 2013, items 154, 879, 983, 1290, 1623 and 1646.

- f) a residence card, or
- g) a visa for the purposes of exercising the rights under Pole's Card (Karta Polaka), or
- (2) for charitable purposes, or
- (3) for the purposes of participation in a rescue operation.
- 4. The requirement to be covered by the medical insurance referred to in paragraph 1(2)(a) or paragraph 2 may be considered fulfilled if the foreigner is covered by adequate insurance in connection with his/her professional situation.
- 5. Documents certifying the purpose and conditions of the intended stay, financial means or the documents referred to in paragraph 1(2) and paragraph 4, shall be verified by a Polish Border Guard officer at the crossing of the border by the foreigner.

Article 26. 1. The minister competent for internal affairs, acting in consultation with the minister competent for foreign affairs, shall specify by way of ordinance:

- (1) the amount of financial means which a foreigner entering the territory of the Republic of Poland is required to possess in order to cover the costs of:
 - a) subsistence for himself during his/her stay in this territory,
 - b) return travel to the country of origin or residence,
 - c) transit through the territory of a third country which will grant him/her a permit to enter that territory;
- (2) documents which may certify that the foreigner is able to lawfully obtain the means referred to in subparagraph
- (3) documents which may certify the purpose and duration of the intended stay if the amount of the means is differentiated depending on the purpose or duration of the intended stay.

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account differentiation of the amount of financial means depending on the purpose or duration of the planned stay in such a way so as to ensure covering by the foreigner the costs of accommodation and subsistence as well as transit or return travel to the country of origin or residence.

Article 27. To the crossing of the border by foreigners from third countries who are school pupils participating in school trips from another European Union Member State, and to the stay of those foreigners in the territory of the Republic of Poland the provisions of the Council Decision 94/795/JHA of 30 November 1994 on a joint action adopted by the Council pursuant to Article K.3 (2)(b) of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State (OJ L 327 of 19.12.1994, p. 1, as amended) shall apply.

Article 28. 1. A foreigner shall be refused entry into the territory of the Republic of Poland where:

- (1) he/she is not in possession of a valid travel document, a valid visa or other valid documents authorising him/her to enter the territory of the Republic of Poland and stay in this territory, or
- (2) he/she is not in possession of the document referred to in Article 25(1)(2)(a) or Article 25(2) or

- (3) he/she has used up the authorised period of stay in the territory of the Schengen states of 90 days in any 180-day period, unless international treaties provide otherwise, or
- (4) he/she has failed to produce documents sufficient to confirm the purpose and conditions of the intended stay, or
- (5) he/she is not in possession of sufficient financial means in the amount depending on the duration and purpose of the intended stay or financial means for return to the country of origin or residence or for transit through the territory of the Republic of Poland to a third country which will grant him/her a permit for entry, or a document certifying that he/she is able to lawfully obtain such financial means, or
- (6) he/she has a forged travel document, visa or other documents authorising him/her to enter the territory of the Republic of Poland and stay in this territory, or
- (7) his/her entry falls within the period of his/her inclusion in the register of foreigners whose stay in the territory of the Republic of Poland is undesirable, or
- (8) his/her data is entered in the Schengen Information System for the purposes of refusing entry, or
- (9) his/her entry into the territory of the Republic of Poland or stay in this territory may pose a threat to public health, or
- (10) it is justified by national security or defence or by the protection of public safety and order, or the international relations of the Republic of Poland or another European Union Member State.

2. The provision of paragraph 1 shall not apply to a foreigner who:

- (1) holds a Schengen visa issued for the purpose referred to in Article 60(1)(23), or
- (2) has applied, during border control, for refugee status, or
- (3) holds the permit referred to in Article 181(1).

3. The provisions of paragraph 1(2)-(6) and (8)-(10) shall not apply to a foreigner who travels through the territory of the Republic of Poland in transit in the cases referred to in Article 5(4)(a) of Regulation (EC) No 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) (OJ L 105 of 13.04.2006, p. 1, as amended), hereinafter referred to as “Schengen Borders Code”.

4. The provisions of paragraph 1(2) shall not apply to a foreigner who enters the territory of the Republic of Poland for a period of maximum 90 days.

5. The provisions of paragraph 1(3)-(5) shall not apply to foreigners who are members of crews of ships arriving at Polish seaports, crossing the border for the purposes of going ashore and staying within the borders of the port town/city and the bordering gminas during the ship’s stay in the port.

6. A foreigner may not be refused entry solely on the grounds referred to in paragraph 1:

- (1) subparagraph 3 – in the case of a foreigner who holds a national visa or a Schengen visa authorising only to enter the territory of the Republic of Poland and stay in this territory;

(2) subparagraph 8 – in the case of a foreigner who holds a national visa, a residence card or a Schengen visa authorising only to enter the territory of the Republic of Poland and stay in this territory.

Article 29. 1. To the crossing of the border by a member of the family of a Polish national who returns into the territory of the Republic of Poland after a period of residence in another European Union Member State, a European Free Trade Association (EFTA) member state – a party to the Agreement on the European Economic Area or the Swiss Confederation, where he was employed or self-employed, the provisions of Article 9(2) and (3) and Articles 11-14 of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families shall apply.

2. Within the meaning of paragraph 1 family members of a Polish national shall be individuals referred to in Article 2(4) of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families.

Article 30. To the crossing of the border by a foreigner in matters regulated by the provisions of the Schengen Borders Code the provisions of Article 23, Article 25, Article 34, Article 35 and the regulations issued pursuant to Article 33 5 shall not apply.

Article 31. 1. A foreigner who has been refused entry into the territory of the Republic of Poland may not have to be – in particularly justified cases, due to his/her health condition – transferred to a third country. In the event of a life or health-threatening situation, medical care shall be provided to such a foreigner.

2. The costs of the provision of medical care referred to in paragraph 1 shall be covered from the state budget from the part administered by the minister competent for internal affairs, from the funds at the disposal of the Commander-in-Chief of the Polish Border Guard.

Article 32. 1. In the case referred to in Article 5(4)(c) of the Schengen Borders Code, the commanding officer of a Border Guard outpost may, upon obtaining consent from the Commander-in-Chief of the Polish Border Guard, permit a foreigner to enter the territory of the Republic of Poland for a period of stay no longer than 15 days.

2. Where the permit referred to in paragraph 1 has been granted to a foreigner whose data has been entered in the Schengen Information System for the purposes of refusing him/her entry, the Commander-in-Chief of the Polish Border Guard shall inform the competent authority of the Schengen state which has entered this foreigner's data in the system of granting such a permit.

3. In matters related to the granting of the permit referred to in paragraph 1 the provisions of the Code of Administrative Proceedings shall not apply.

Article 33. 1. The decision to refuse entry into the territory of the Republic of Poland shall be issued to the foreigner by the commanding officer of a Border Guard outpost.

2. The decision referred to in Article 1 may be appealed against to the Commander-in-Chief of the Polish Border Guard.

3. The decision referred to in paragraph 1 shall be immediately enforceable.

4. The commanding officer of a Polish Border Guard outpost shall record the issue of the decision referred to in paragraph 1 in the foreigner's travel document.

5. The minister competent for internal affairs shall specify, by way of ordinance, the procedure for recording the issuance of the decision to refuse entry into the territory of the Republic of Poland in the foreigner's travel document.

6. In the ordinance referred to in paragraph 5, the minister competent for internal affairs shall take into account the provision of measures to establish during the inspection of the foreigner's travel document whether, and – if so – on what basis, when and by whom the decision was issued.

Article 34. 1. The proceedings conducted by the Polish Border Guard authorities before the decision referred to in Article 33(1) is issued to a foreigner shall be limited to:

- (1) interrogating the foreigner;
- (2) checking the documents held by the foreigner;
- (3) interrogating persons accompanying the foreigner during the travel, who have been indicated by the foreigner;
- (4) checking relevant information in available records, registers and lists related to foreigners;
- (5) obtaining necessary information from public bodies, central and local government authorities, public utility companies, other business entities and social organisations, as well as natural persons.

2. Activities undertaken as part of the proceedings referred to in paragraph 1 may be limited to checking only the documents held by the foreigner if the grounds for the foreigner's failure to meet the conditions required to cross the border do not raise any doubts.

Article 35. 1. A foreigner stopped in the border zone directly after having crossed the border unintentionally and in violation of the law may be immediately escorted to the state border.

2. The authority which stopped the foreigner because of illegal crossing of the border shall take his/her fingerprints, unless the foreigner has been immediately escorted to the state border.

3. The authority which has taken the foreigner's fingerprints shall provide the Commander-in-Chief of the Police with the image of the foreigner's fingerprints, his/her personal data and information to be entered in the register referred to in Article 428(1)(4).

Article 36. 1. The minister competent for health shall specify, by way of ordinance:

- (1) a list of infectious diseases that can pose a threat to public health, the diagnosis or suspicion of which may be the basis for refusal to grant a foreigner a permit to enter the territory of the Republic of Poland;
- (2) criteria for suspecting the occurrence of the diseases that can pose a threat to public health referred to in subparagraph 1.

2. In the ordinance referred to in paragraph 1, the minister competent for health shall take into account only epidemic diseases, as defined by the World Health Organisation, and other highly infectious and particularly dangerous diseases to be controlled in Polish nationals under the provisions of the Act of 5

December 2008 on the prevention and control of infections and infectious diseases in humans (Dz. U. of 2013, item 947), as well as the need to ensure humane treatment of foreigners and prevent a threat to public health in the border crossing area and in the territory of the Republic of Poland.

Chapter 2

Crossing the border under the local border traffic regime

Article 37. A local border traffic permit may be granted to a foreigner who meets the conditions set out in Article 9 of Regulation No 1931/2006.

Article 38. A local border traffic permit shall be refused to a foreigner who does not meet the conditions set out in Article 9 of Regulation No 1931/2006.

Article 39. A local border traffic permit granted to a foreigner shall be revoked if:

- (1) it has been granted in breach of Article 9 of Regulation No 1931/2006, or
- (2) the foreigner has ceased to meet the conditions for the permit to be granted.

Article 40. 1. A local border traffic permit shall be cancelled where a foreigner who has entered the territory of the Republic of Poland on the basis of such a permit:

- (1) continues to stay in this territory after the end of the period of stay to which he/she was authorised in accordance with the permit, or
- (2) stays outside the border zone in which he/she could stay in accordance with the permit

– if the circumstances set out in Article 303(1) occur.

2. A local border traffic permit may be cancelled if the foreigner abuses the local border traffic regime while staying in the border zone specified in the permit, for the purposes other than those for which the permit has been granted.

Article 41. 1. A foreigner crossing the border under the local border traffic regime shall be refused entry into the territory of the Republic of Poland if:

- (1) he/she is not in possession of a valid local border traffic permit, or
- (2) he/she has used up the permissible period of stay in the territory of the Republic of Poland under the local border traffic regime, set out in the relevant agreement on local border traffic, or
- (3) he/she holds a forged or modified local border traffic permit, or
- (4) his/her entry falls within the period of his/her inclusion in the register of foreigners whose stay in the territory of the Republic of Poland is undesirable, or
- (5) his/her data is entered in the Schengen Information System for the purposes of refusing entry, or
- (6) his/her entry into the territory of the Republic of Poland or stay in this territory can pose a threat to public health, or
- (7) it is justified by national security or defence or by the protection of public safety and order, or the international relations of the Republic of Poland or another European Union Member State.

2. A foreigner crossing the border under the local border traffic regime shall be refused entry into the territory of the Republic of Poland by way of decision.

3. To the refusal of entry into the territory of the Republic of Poland under the local border traffic regime the provisions of Article 33(1)-(3) and Article 34 shall accordingly apply.

Article 42. 1. A local border traffic permit shall be granted, refused to be granted or revoked by the consul competent in respect of the place of permanent residence of the foreigner.

2. A local border traffic permit shall be refused to be granted or revoked by way of decision.

3. A foreigner who has been refused to be granted a local border traffic permit or whose permit has been revoked may apply to the competent consul for reconsideration of his/her case.

4. An application for reconsideration of the case by a consul shall be filed within 14 days from the date of receipt by the foreigner of a decision to refuse or revoke a local border traffic permit.

Article 43. 1. A local border traffic permit shall be cancelled by way of decision.

2. The decision referred to in Article 1 shall be issued by a voivodeship Police commander, poviat (municipal) Police commander, the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost who, based on the results of the control of the legality of the foreigner's stay, has ascertained grounds the cancellation of the permit.

3. The decision referred to in Article 1 may be appealed against to the voivode competent in respect of the seat of the authority issuing the decision.

Article 44. 1. A local border traffic permit shall be granted at the request of a foreigner, submitted on a relevant form.

2. A foreigner applying for a local border traffic permit shall provide the consul with a valid travel document and shall submit:

(1) a completed application form for such a permit, including:

(1) the foreigner's data or information referred to in Article 13,

(2) the following data concerning the travel document:

- document series and number,
- date of issue of the document and the date of its expiry,
- the name of the authority which issued the document,

c) the foreigner's permanent place of residence,

d) reasons for frequent crossing of the border by the foreigner under the local border traffic,

e) the following data of the person, company or institution in the Polish border zone that will be visited by the foreigner during his/her stay in the territory of the Republic of Poland:

- the first name and surname of such a person or the name of such a company or institution,

- address,
 - phone and fax number,
 - f) information about local border traffic permits granted previously to the foreigner,
 - g) date and circumstances of cancellation or revocation of a local border traffic permit held previously by the foreigner – if applicable;
- (2) recent photograph;
 - (3) documents certifying the foreigner's permanent place of residence in the border zone;
 - (4) documents certifying the reasons for frequent crossing of the border.
3. A foreigner applying for a local border traffic permit shall have his/her fingerprints taken.
 4. If the foreigner has not have his/her fingerprints taken for the purposes of being granted a local border traffic permit in spite of being obliged to do so, the proceedings on granting him/her such a permit shall not be initiated.

Article 45. 1. The following information shall be included in a local border traffic permit:

- (1) the information referred to in Article 7(3) of Regulation No 1931/2006;
- (2) sex of the holder of the permit;
- (3) series and number of the permit.

2. The permit referred to in paragraph 1 shall be provided with technical safeguards provided for in Regulation No 1030/2002.

Article 46. The minister competent for internal affairs shall specify, in consultation with the minister competent for foreign affairs, by way of ordinance:

- (1) the template of the application form for a local border traffic permit,
 - (2) the number of photographs to be attached to the application referred to in subparagraph 1,
 - (3) detailed technical requirements concerning photographs attached to the application referred to in subparagraph 1,
 - (4) the template of the local border traffic permit,
 - (5) the method of taking fingerprints for the purposes of granting a foreigner a local border traffic permit,
 - (6) the method of capturing the data included in a local border traffic permit and transferring it for the purposes of personalisation of the local border traffic permit
- having regard to the need to ensure the smooth conduct of the proceedings and the possibility of control of the crossing of the border under the local border traffic.

Article 47. 1. The commanding officer of a Polish Border Guard outpost shall retain a local border traffic permit if, in the course of border control, he/she finds that the permit has been revoked or cancelled, and shall provide the foreigner with a document certifying that the permit has been retained.

2. The minister competent for internal affairs, in consultation with the minister competent for foreign affairs, shall specify, by way of ordinance, the procedure following the retention of a local border traffic permit in the course of border control and the template of the document certifying that the permit has been retained.

3. In the ordinance referred to in paragraph 2, the minister competent for internal affairs shall specify the required number of copies of the document certifying that a local border traffic permit has been retained and the form of transfer of this document to the competent authority, and shall provide for including in the template of this document information about the grounds for the retention of the permit.

Article 48. The Head of the Office shall provide the competent authorities of states applying Regulation No 1931/2006 with information about:

- 1) decisions on revocation of a local border traffic permit;
- 2) fines imposed on the foreigner for staying:
 - a) outside the border zone in which he/she was allowed to stay in accordance with the local border traffic permit, or
 - b) in the territory of the Republic of Poland after the expiry of the period of stay set out in the local border traffic permit;
3. decisions on imposing on the foreigner the return obligation for the reasons referred to in Article 302(1)(12) or (13).

Chapter 3

Invitations

Article 49. 1. A foreigner may use an invitation as a document certifying that he/she is in possession of financial means sufficient to cover the costs associated with the intended stay in the territory of the Republic of Poland, including the costs of accommodation and subsistence, as well as the costs of return to the country of origin or residence, or the costs of transit to a third country that will grant him/her a permit for entry.

2. An invitation may be issued by:

- (1) a Polish national residing in the territory of the Republic of Poland, a national of another European Union Member State, a European Free Trade Association (EFTA) member state – a party to the Agreement on the European Economic Area or the Swiss Confederation, or a member of his/her family, residing in the territory of the Republic of Poland and holding a residence permit or a permanent residence permit in this territory, or
- (2) a foreigner residing, immediately before issuing the invitation, legally and uninterruptedly for at least five years in the territory of the Republic of Poland, or holding a permanent residence permit or long term resident's EU residence permit, or

(3) a legal person or organisational unit without legal personality, established in the territory of the Republic of Poland.

3. To establishing that the stay of a foreigner referred to in paragraph 2(2) in the territory of the Republic of Poland is uninterrupted the provisions of Article 195(4) shall apply.

Article 50. 1. The entry of an invitation in the register of invitations shall be refused or such an entry shall be cancelled when:

- (1) the host does not meet the requirements referred to in Article 49(2), or
- (2) the invited foreigner is entered in the register of foreigners whose stay in the territory of the Republic of Poland is undesirable, or
- (3) it is justified by national security or defence, by the protection of public safety and order or the interest of the Republic of Poland, or
- (4) the host has failed to prove that he/she is able to cover the costs referred to in Article 53(2), or
- (5) the housing conditions of the host suggest that he/she will not be able to fulfil the commitments undertaken in the invitation, if the habitable premises of the host have been indicated as a place of accommodation of the invited foreigner, and the host has failed to prove that he/she can provide the foreigner with accommodation in another place, or
- (6) the host failed to fulfil his/her commitments under a previously issued invitation, or
- (7) in the course of the proceedings on entering the invitation in the register of invitations, the host:
 - (a) filed an application containing false personal data or false information, or attached documents containing such data or information, or
 - (b) testified untruthfully or concealed the truth, or forged or modified a document to use it as an authentic one, or used such a document as an authentic one, or
- 8) circumstances of the case indicate that the purpose of the foreigner's entry into the territory of the Republic of Poland and his/her stay in this territory will be different than that declared by the host.

2. The provision of paragraph 1(6) shall apply when the host has applied for entering the invitation in the register of invitations within three years from the end of the validity period of an invitation containing commitments which the inviting party failed to fulfil.

Article 51. 1. The invitation entered in the register of invitations shall be valid within the period specified therein, for which the host has invited the foreigner, no longer than one year.

2. The invitation shall be entered in the register of invitations at the request of the host made on a form including:

- (1) the data and information referred to in Article (54)(1), (2) and (4)-(8);
- (2) information on:
 - (a) the number of foreigners invited within the year preceding the submission of the application for entering the invitation in the register of invitations,

- (b) financial and earning capacities of the host,
- (c) accommodation conditions provided to the invited foreigner;
- (3) commitment of the host to cover the costs associated with the foreigner's stay, including the costs of accommodation, subsistence and medical treatment, if necessary, as well as the costs of return to the country of origin or residence, or the costs of transit to a third country that will grant him/her a permit for entry, and the costs of issuance and enforcement of a decision imposing the return obligation on the foreigner;
- (4) previous surnames of the invited foreigner;
- (5) the first name of the father of the invited foreigner;
- (6) information required pursuant to Article 37(1) of Regulation No 767/2008.

3. The invitation shall be entered in the register of invitations by the voivode competent with respect to the place of residence or the seat of the host.

Article 52. 1. The invitation shall be refused to be entered in the register of invitations or cancelled, by way of decision, by the voivode competent with respect to the place of residence or the seat of the host.

2. The voivode shall render the decision on cancellation of the entry of the invitation in the register of invitations *ex officio* or at the request of the host, made at least 7 days before the issue of a visa.

3. The invitation shall expire on the date on which the decision referred to in Article 2 becomes final.

Article 53. The host applying for entry of the invitation in the register of invitations shall submit:

- (1) completed form of the application for entering the invitation in the register of invitations;
- (2) document certifying the capacity to cover the costs associated with the foreigner's stay, including the costs of accommodation and subsistence, as well as the costs of return to the country of origin or residence, or the costs of transit to a third country that will grant the foreigner a permit for entry,
- (3) document certifying the legal title to the habitable premises, if the host's habitable premises have been indicated as the place of accommodation of the invited foreigner, or a document certifying the capacity to provide the foreigner with accommodation in another place.

Article 54. The invitation shall include:

- (1) the first name(s), surname, date and place of birth, citizenship, address of residence, telephone number, type, series and number of the host's identity document, and – where the host is a legal person or an organisational unit without legal personality – business name or name, REGON number, address of the registered seat and contact telephone number;
- (2) the first name(s), surname, date and place of birth, sex, citizenship, address of residence, series and number of the travel document of the invited foreigner and the degree of kinship with the host;
- (3) information on the host's commitment to cover the costs referred to in Article 51(2)(3);

- (4) address of the place of accommodation of the invited foreigner in the territory of the Republic of Poland;
- (5) period for which the foreigner has been invited by the host (from ...to ...);
- (6) the purpose of the stay of the invited foreigner in the territory of the Republic of Poland;
- (7) the name of the authority which entered the invitation in the register of invitations;
- (8) the date and number of the entry of the invitation in the register of invitations;
- (9) the period of validity of the invitation;
- (10) information whether the host provides the foreigner with accommodation in his/her habitable premises.

Article 55. The invitation may be collected by a proxy holding a power of attorney authorising him/her to collect it.

Article 56. Where the host has failed to fulfil the commitments under the invitation, the State Treasury or other entities may claim at court reimbursement by the host of the costs referred to in Article 51(2)(3), incurred by them due to the performance of their statutory duties.

Article 57. 1. The minister competent for internal affairs shall specify, by way of ordinance:

- 1) the templates of:
 - (a) the invitation,
 - (b) the form of the application for entering the invitation in the register of invitations;
 - 2) the amount of financial means which the host should have at his/her disposal to cover the costs referred to in Article 53(2).
2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account the need to:
- (1) ensure clarity and completeness of the invitation template;
 - (2) include in the template of the application form for entering the invitation in the register of invitations data necessary to enter the invitation in the register of invitations;
 - (3) determine such an amount of financial means which the host should have at his/her disposal that should be sufficient to cover indispensable costs associated with the foreigner's stay in the territory of the Republic of Poland, including the costs of accommodation and subsistence, return to the country of origin or residence, or the costs of transit to a third country that will grant the foreigner a permit for entry. The minister shall also provide in this ordinance for the possible differentiation of this amount depending on the place of accommodation of the foreigner, the duration of his/her stay in the territory of the Republic of Poland and family ties between the host and the invited foreigner.

SECTION IV

Visas

Chapter 1

The issuing of visas

Article 58. A foreigner may be granted a Schengen visa or a national visa.

Article 59. 1. A national visa authorises the foreigner to enter the territory of the Republic of Poland and stay in this territory uninterruptedly or within several consecutive stays lasting in total no longer than 90 days within the period of visa validity.

2. The period of stay in the territory of the Republic of Poland based on a national visa shall be determined within the limits laid down in paragraph 1, taking into account the purpose of stay specified by the foreigner.

3. The period of validity of a national visa shall commence no later than 3 months from the date of its issue and shall not be longer than 1 year.

Article 60. 1. A Schengen visa or a national visa shall be issued for the following purposes:

- (1) tourism;
- (2) visiting family or friends,
- (3) participating in sports events;
- (4) carrying out business activity;
- (5) performing work for a period no longer than 6 months within 12 consecutive months, based on a declaration of intent to entrust the performance of work, registered in the poviát labour office;
- (6) performing work based on a document other than that referred to in subparagraph 5;
- (7) carrying out cultural activities or participation in conferences;
- (8) performing official duties of representatives of a foreign state authority or an international organisation;
- (9) attending first degree studies, second degree studies, uniform Master's studies or third degree studies;
- (10) vocational training;
- (11) education or training in a form other than that referred to in subparagraph 9 or subparagraph 10;
- (12) teaching;
- (13) carrying out research or development;
- (14) transit;
- (15) air transit;
- (16) medical treatment;

(17) joining a national of another European Union Member State, a member state of the European Free Trade Association (EFTA) – a party to the Agreement on the European Economic Area or the Swiss Confederation, or residing in it;

(18) participating in a programme of cultural or educational exchange programme, humanitarian aid programme or a holiday work programme;

(19) arriving in the territory of the Republic of Poland as a member of the immediate family of the repatriate;

(20) enjoying the rights of a holder of a Pole's Card (Karta Polaka);

(21) repatriation;

(22) temporary protection;

(23) arriving for humanitarian reasons, due to the interest of the state or international commitments;

(24) exercising a temporary residence permit granted for the purposes of family reunification;

(25) other than those referred to in subparagraphs 1-24.

2. A visa for the purposes referred to in paragraph 1:

(1) subparagraph 8 – may be issued in particular as a diplomatic or business visa;

(2) subparagraph 14 or subparagraph 15 – may be issued only as a Schengen visa;

(3) subparagraphs 19-22 – may be issued only as a national visa.

Article 61. Staff of diplomatic missions and consular posts of other states as well as other persons treated equally with them under applicable laws, treaties or generally recognised international customs shall be granted documents confirming the performance of their functions, issued by the minister competent for foreign affairs, while members of their families forming part of their households shall be granted documents determining their status, issued also by the minister competent for foreign affairs.

Article 62. The documents referred to in Article 61 shall authorise to enter the territory of the Republic of Poland and stay in this territory.

Article 63. The minister competent for foreign affairs, in consultation with the minister competent for internal affairs, shall specify, by way of ordinance:

(1) documents certifying the performance of their functions by members of staff of diplomatic missions and consular posts of foreign states and other persons treated equally in terms of privileges and immunities under applicable laws, treaties or generally recognised international customs, as well as documents proving the status of members of their families, authorising them to enter the territory of the Republic of Poland and stay in this territory,

(2) templates of the documents referred to in subparagraph 1,

(3) designation of Schengen visas or national visa issued to persons referred to in subparagraph 1

– having regard to applicable treaties or generally recognised international customs.

Article 64. 1. A visa for the purposes referred to in Article 60(1)(5) or (6), may be issued to a foreigner who shall produce a work permit within the meaning of Article 2(1)(43)(a) of the Act of 20 April 2004 on employment promotion and labour market institutions, in the territory of the Republic of Poland, or a written declaration of the employer of his/her intent to entrust work to a foreigner, where a work permit is not required.

2. A visa for the purposes referred to in Article 60(1)(5) or (6), shall be issued for the period of stay corresponding to the period specified in the permit or declaration. This period may not be longer than that provided for a given type of visa.

3. In the case of a visa issued for the purposes referred to in Article 60 (1)(5), the period of stay for which it is issued may not be longer than 6 months within a period of 12 consecutive months beginning on the day of the first entry by the foreigner into the territory of the Republic of Poland.

Article 65. 1. A foreigner shall be refused a national visa if at least one of the following premises occurs:

(1) his/her data is entered in the register of foreigners whose stay in the territory of the Republic of Poland is undesirable, or

(2) his/her data is entered in the Schengen Information System for the purposes of refusing entry, or

(3) he/she does not have sufficient financial means to cover the expenses to be incurred during the intended stay in the territory of the Republic of Poland and the costs of return to the country of origin or residence, or the costs of transit to a third country that will grant him/her a permit for entry, or he/she is unable to obtain such means lawfully, or

(4) he/she does not have the health or medical insurance referred to in Article 25(1)(2)(a), or the medical insurance referred to in Article 25(2), or

(5) it is justified by national security or defence, the protection of public safety and order or the interest of the Republic of Poland, or

(6) the foreigner's travel document does not meet the criteria set out in Article 77(5), except cases where the criterion referred to in Article 77(5)(1) has not been taken into account due to the foreigner's legitimate interest, or

(7) in the proceedings on issuing of a national visa:

(a) the foreigner filed an application containing false personal data or false information, or attached to the application documents containing such data or information, or

(b) testified untruthfully or concealed the truth, or forged or modified the document in order to use it as an authentic one, or used such a document as an authentic one, or

(8) has not justified the purpose and conditions of the intended stay, or

(9) there are justified doubts as to his/her intention to leave the territory of the Republic of Poland before the expiration of the visa.

2. If the foreigner's data is entered in the Schengen Information System for the purposes of refusing entry, a national visa may be issued only if there are material reasons for it to be issued, in particular for humanitarian reasons or because of international obligations, taking into account the interest of the state that has made the entry in the Schengen Information System.

Article 66. 1 A national visa shall be issued or refused to be issued by a consul.

2. A Schengen visa shall be issued at the border or refused to be issued by a commanding officer of the Polish Border Guard outpost.

3. A national visa shall be issued at the foreigner's request submitted on a relevant form.

4. A national visa shall be issued to a member of the staff of a diplomatic mission or consular post of a foreign state or to another person treated equally with them in terms of privileges and immunities under applicable laws, treaties or commonly recognised international customs, as well as to members of their families, or it shall be refused to be issued by:

(1) the minister competent for foreign affairs or

(2) a consul.

5. The minister competent for foreign affairs shall issue the national visa referred to in paragraph 4 pursuant to a note issued by the ministry of foreign affairs of a foreign state or its diplomatic mission, and – in the case of a consul – additionally based on the application for a visa.

6. A visa issued for the purposes referred to in Article 60(1)(5) or (6) shall be issued or refused to be issued by the consul competent with respect to the country of the foreigner's permanent residence, and – in the case of a foreigner residing legally in the territory of another European Union Member State, a European Free Trade Association (EFTA) member state – a party to the Agreement on the European Economic Area or the Swiss Confederation – the consul whose seat is located in a given state, provided the foreigner has justified submission of the application outside the country of his/her permanent residence.

Article 67. 1. Where the issue of a Schengen visa requires consultation with the central authority of another Schengen state in accordance with Article 22(1) of the Community Visa Code, the consul who examines the application for a Schengen visa shall request the competent authority of that state, via the Head of the Office, for its opinion in the matter concerned.

2. Within 10 days from receipt of an application in the matter referred to in paragraph 1, the Head of the Office shall inform the consul whether the central authority of another Schengen state has expressed its objection to the issue of a Schengen visa. If the central authority of another Schengen state has not expressed its objection to the issue of a Schengen visa, the Head of the Office shall not provide such information.

Article 68. 1. Where the issue of a Schengen visa by an authority of another Schengen state requires consultation with the Polish central authority pursuant to Article 22(1) of the Community Visa Code, the Head of the Office shall notify the central authority of another Schengen state, within 7 days from receipt of a request in that regard, whether it objects to the issue of a Schengen visa.

2. Before communicating the information referred to in paragraph 1, the Head of the Office, in order to establish whether there are grounds for objecting to the issue of a Schengen visa due the circumstances referred to in Article 32(1)(a)(vi) of the Community Visa Code, shall consult:

- (1) the Commander-in-Chief of the Polish Border Guard;
- (2) the Commander-in-Chief of the Police;
- (3) the Head of the Internal Security Agency;
- (4) the Head of the Foreign Intelligence Agency;
- (5) the minister competent for foreign affairs

3. The Commander-in-Chief of the Polish Border Guard, the Commander-in-Chief of the Police, the Head of the Internal Security Agency, the Head of the Foreign Intelligence Agency and the minister competent for foreign affairs shall communicate to the Head of the Office information required to determine the existence of the circumstances referred to in Article 32(1)(a)(vi) of the Community Visa Code, within 5 days from the date of receipt of a request in this regard. If those authorities do not provide such information within this period, they shall be considered to have expressed their consent for the issue of a visa.

4. The provisions of paragraphs 2 and 3 shall also apply in cases where consent for the issue of a Schengen visa with limited territorial validity valid in the territory of the Republic of Poland is requested by an authority of another Schengen state in accordance with Article 25(2) of the Community Visa Code.

Article 69. 1. The consul who examines an application for a Schengen visa shall request the Head of the Office for providing information whether there are grounds for refusal of a visa to a foreigner, referred to in Article 32(1)(a)(ii) or(vi) of the Community Visa Code, where:

- (1) the application for a Schengen visa has been filed by a national of a third country in relation to which there is a requirement to consult Polish authorities when examining such an application, or
- (2) such a need results from bilateral international visa representation agreements concluded by the Republic of Poland with other Schengen member states pursuant to Article 8(4)(c) of the Community Visa Code.

2. The Head of the Office shall provide the information referred to in paragraph 1 within 10 days from receipt of the consul's request in this regard.

3. Before communicating the information referred to in paragraph 1, the Head of the Office shall consult:

- (1) the Commander-in-Chief of the Polish Border Guard;
- (2) the Commander-in-Chief of the Police;
- (3) the Head of Internal Security Agency;
- (4) the Head of the Foreign Intelligence Agency;
- (5) the minister competent for foreign affairs;

(6) an authority other than those referred to in subparagraphs 1-5, if required.

4. To the consultations referred to in paragraph 3 the provisions of Article 68(3) shall apply.

5. In cases other than those referred to in paragraph 1, the consul may request the Head of the Office for information whether there are grounds for the refusal to grant the foreigner:

(1) a Schengen visa – referred to in Article 32(1)(a)(ii) or (vi) of the Community Visa Code, or

(2) a national visa – referred to in Article 65(1)(5) or (8).

Article 70. 1. At the request of the Commander-in-Chief of the Polish Border Guard, the Commander-in-Chief of the Police, the Head of the Internal Security Agency, the Head of the Foreign Intelligence Agency, the minister competent for foreign affairs or another authority referred to in Article 69(3)(6), filed before the lapse of the 5-day period for providing the Head of the Office with information whether there are the grounds for refusal to the foreigner of a Schengen visa, referred to in Article 32(1)(a)(ii) or (vi) of the Community Visa Code, or a national visa, referred to in Article 65(1)(5) or (8), the Head of the Office may extend this period by 20 days.

2. Where the Head of the Office has approved of the request to extend the period referred to in paragraph 1, or if it is necessary for him/her to conduct additional explanatory proceedings, the 10-day period set out for the Head of the Office to provide information to the consul shall be extended to maximum 30 days.

3. The Head of the Office shall notify the consul of the extension of the period referred to in paragraph 2.

Article 71. 1. The exchange of information pursuant to Articles 67-70 shall be carried out by means of electronic communications.

2. The exchange of information pursuant to Articles 67-70 may be carried out in writing in case of:

(1) impossibility of exchanging information by means of electronic communications due to extraordinary circumstances, or

(2) exchange of information with the authority referred to in Article 69(3)(6).

Article 72. Where the data of a foreigner applying for a national visa has been entered in the Schengen Information System for the purposes of refusing entry but there are material reasons for granting such a visa, referred to in Article 65(2), the consul who examines the application for a national visa shall obtain, via the Commander-in-Chief of the Police, the opinion referred to in Article 25(1) of the Convention Implementing the Schengen Agreement, and notifies the competent authority of another Schengen state, via the Commander-in-Chief of the Police, of the issue of a national visa.

Article 73. 1. The following authorities shall be competent to notify authorities of other Schengen states of the issue of a Schengen visa:

(1) the minister competent for foreign affairs – in the cases referred to in Article 25(4) and Article 31(1) of the Community Visa Code – in respect of Schengen visas issued by a consul;

(2) the Commander-in-Chief of the Polish Border Guard – in the cases referred to in Article 25(4) and Article 31(1) of the Community Visa Code – in respect of Schengen visas issued at the border;

(3) the minister competent for foreign affairs – in the cases referred to in Article 31(1) of the Community Visa Code – in respect of Schengen visas issued by the minister competent for foreign affairs.

2. Where, as far as national visas are concerned, the circumstances referred to in Article 31(1) of the Community Visa Code occur, the consul or the minister competent for foreign affairs shall notify the Head of the Office of the issue of a national visa.

3. The minister competent for foreign affairs, a consul or the Commander-in-Chief of the Polish Border Guard shall communicate the issue of a Schengen visa via the Head of the Office.

4. The Head of the Office shall provide the information referred to in paragraphs 1 and 2:

(1) to the Commander-in-Chief of the Polish Border Guard;

(2) to the Commander-in-Chief of the Police;

(3) to the Head of Internal Security Agency;

(4) to the Head of the Foreign Intelligence Agency;

(5) to the minister competent for foreign affairs.

Article 74. 1. In the cases referred to in Article 25(4) and Article 31(1) of the Community Visa Code, the Head of the Office shall be an authority competent to gather information on Schengen visas issued by the competent authorities of other Schengen states.

2. The Head of the Office shall provide the information referred to in paragraph 1 to the Commander-in-Chief of the Polish Border Guard, the Commander-in-Chief of the Police, the Head of the Internal Security Agency, the Head of the Foreign Intelligence Agency and the minister competent for foreign affairs.

Article 75. 1. A refusal to issue a national visa shall be made by way of decision.

2. A decision on refusal to issue a national visa shall be delivered with the use of a form.

Article 76. 1. A decision on refusal to issue a Schengen visa or a national visa rendered by:

(1) a consul – may be appealed against to this authority;

(2) the commanding officer of a Polish Border Guard outpost – may be appealed against to the Commander-in-Chief of the Polish Border Guard.

2. A request for re-examination of the case by the consul shall be filed within 14 days from the date of delivery of a decision on refusal a Schengen visa or a national visa.

3. The consul shall examine the request referred to in paragraph 2 within 7 days.

Article 77. 1. A foreigner applying for a national visa shall submit in person:

(1) a completed application form for such a visa, including:

(a) the foreigner's data or information referred to in Article 13,

- (b) information concerning his/her citizenship at birth,
- (c) the following data concerning the travel document held by the foreigner:
 - type,
 - series and number,
 - date of issue and expiry,
 - name of the issuing authority,
- d) the foreigner's email address,
- e) the first name, surname, address and citizenship of the parental authority or legal guardian of the foreigner – in the case of a minor,
- f) the name and address of the school or university – in the case of foreigners being pupils or students,
- g) telephone number of the entity entrusting the performance of work,
- h) national identification number assigned to the foreigner,
- i) information on Schengen visas or national visas issued to the foreigner within the last 5 years,
- j) information on the purpose and reasons of the foreigner's stay in the territory of the Republic of Poland,
- k) the name of the European Union Member State which is the first Member State to be entered by the foreigner,
- l) information about the foreigner's permanent residence in the territory of a state other than the state the foreigner is a national of, and about the document authorising him/her to the stay in that territory,
- m) the number of entries into the territory of the Republic of Poland to which the foreigner is to be authorised under a national visa,
- n) the foreigner's intended address in the territory of the Republic of Poland,
- o) information about having taken the foreigner's fingerprints in the course of the previous proceedings on the issue of a visa to him/her,
- p) contact data of the host or the foreigner's temporary address in the territory of the Republic of Poland,
- r) the intended date of the foreigner's entry into the territory of the Republic of Poland and the date when he/she intends to leave this territory,
- s) information concerning the coverage of the costs of the foreigner's travel and subsistence,

t) the following data or information concerning a national of another European Union Member State, a European Free Trade Association (EFTA) member state – a party to the Agreement on the European Economic Area or the Swiss Confederation, who is a member of the foreigner's family:

- the first name(s) and surname,
- date of birth,
- travel document number or ID card number,
- information about his/her citizenship,
- information about the degree of kinship with the foreigner;

2) a recent photograph;

3) documents certifying:

(a) the purpose and conditions of the intended stay,

(b) that he/she has sufficient financial means to cover the costs of subsistence throughout the period of the intended stay in the territory of the Republic of Poland and to cover the costs of return to the country of origin or residence, or the costs of transit to a third country that will grant a permit for entry, or is able to obtain such means lawfully,

(c) being covered with health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds or travel medical insurance referred to in Article 25(1)(2)(a),

(d) credibility of the foreigner's declaration of his/her intent to leave the territory of the Republic of Poland before the expiry of his/her visa,

(e) other circumstances specified in the application.

2. A foreigner applying for a national visa for the purposes referred to in Article 60(1)(5) or (6), who is not covered yet by health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, shall submit a document certifying that he/she has the travel medical insurance referred to in Article 25(2).

3. To the requirement referred to in paragraph 1(3)(c) or paragraph 2 the provision of Article 25 (4) shall apply.

4. In assessing whether the foreigner meets the requirement referred to in paragraph 1(3)(c) or paragraph 2, the consul shall determine whether the insurance guarantees providers of health care services in the territory of the Republic of Poland the actual ability to meet claims towards the insurer.

5. A foreigner applying for a national visa shall produce for inspection a travel document that meets all the following criteria:

(1) its validity period shall expire no earlier than 3 months after the expiry of the visa he/she is applying for;

(2) contains at least two blank pages;

(3) has been issued in the past 10 years.

6. In urgent cases justified by legitimate interest of the foreigner, the criterion referred to in paragraph 5(1) may be not taken into account.

7. In exceptional cases justified by the foreigner's personal situation, the consul may waive the requirement of submitting the application in person.

8. Receipt of an application for a national visa shall be acknowledged in the foreigner's travel document.

Article 78. 1. A national visa shall be affixed in the form of a visa sticker in the travel document, and in special cases justified by the interest of the foreigner – on a separate sheet for affixing visas.

2. The foreigner's data or information referred to in Article 13, and the foreigner's recent photograph shall be included in the sheet for affixing visas.

Article 79. 1. Where an error has been detected in the national visa sticker before it has been affixed in the travel document or on the sheet for affixing visas, the sticker shall be invalidated.

2. If the error has been detected after affixing the visa sticker in the travel document or in the sheet for affixing visas, the minister competent for foreign affairs, a consul or the commanding officer of a Polish Border Guard outpost shall invalidate the national visa sticker, and a new sticker shall be affixed in the travel document or in the sheet for affixing visas.

3. Where the travel document belonging to a foreigner residing in the territory of the Republic of Poland on the basis of a national visa has been replaced, the voivode competent with respect to the place of residence of the foreigner, at his/her request, shall affix a new national visa sticker in the replaced document.

4. If the commanding officer of a Polish Border Guard outpost has detected an error in a Schengen visa sticker, he/she shall invalidate such a sticker and affix a new sticker in the travel document or on the sheet for affixing visas.

Article 80. 1. The minister competent for internal affairs, in consultation with the minister competent for foreign affairs, shall specify, by way of ordinance:

(1) indication of the purpose of issuing Schengen visas or national visas, except for the airport transit visa referred to in Article 2(5) of the Community Visa Code, Schengen visas issued for the purposes of transit and visas issued to members of the staff of diplomatic missions or consular posts of foreign states or other persons treated equally in terms of privileges and immunities under applicable laws, treaties or commonly recognised international customs, as well as members of their families;

(2) the template of the sheet for affixing visas referred to in Article 78(1);

(3) the templates of application forms for a national visa and detailed technical requirements for a photograph attached to the application;

(4) procedure for acknowledgement the receipt of an application for a national visa;

(5) procedure for providing the Head of the Office by:

- (a) a consul – with the data included in an application for a visa,
 - (b) a consul, the Commander-in-Chief of the Polish Border Guard and the minister competent for foreign affairs – with information about the issue of a Schengen visa;
- (6) template of the form on which a decision on refusal to issue a national visa is rendered;
- (7) the method of affixing a national visa sticker in the travel documents or on a separate sheet for affixing visas;
- (8) the method of invalidation of a national visa sticker in the case referred to in Article 79(2).

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account:

- (1) the types of the visas referred to in Article 58 and the purposes of issuing a visa, referred to in Article 60;
- (2) the need to ensure the clarity of the sheet for affixing visas referred to in Article 78(1);
- (3) the need to ensure control over acknowledgement of receipt of an application for a national visa;
- (4) the need to ensure the smooth and safe transfer of the information and data referred to in paragraph 1(5);
- (5) the need to ensure control over the procedures referred to in paragraph 1(7) and (8).

Article 81. 1. To the issue of visas for a member of a Polish national who returns into the territory of the Republic of Poland after a period of residence in another European Union Member State, a European Free Trade Association (EFTA) member state – a party to the Agreement on the European Economic Area or the Swiss Confederation, where he was employed or self-employed, the provisions of Article 10 and Article 11(a) of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families shall apply.

2. Within the meaning of the provision of paragraph 1, persons referred to in Article 2(4) of the Act of 14 July 2006 on the entry into, residence in and departure from territory of the Republic of Poland of nationals of the European Union Member States and members of their families shall be family members of a Polish national.

Chapter 2

Visa extension

Article 82. 1. Extension of the period of validity of a visa or the period of stay of the foreigner residing in the territory of the Republic of Poland covered by such a visa, hereinafter referred to as “visa extension”, may take place in the case of a national visa, providing each of the following conditions is met:

- (1) it is justified by vital personal or professional interest of the foreigner, or, for humanitarian reasons, the foreigner is unable to leave this territory before the expiry of the national visa or before the end of the authorised period of stay;

- (2) the events that are the cause of applying for a national visa extension occurred independently of the will of the foreigner and were not foreseeable at the time of applying for a national visa;
- (3) the circumstances do not indicate that the purpose of the foreigner's stay in the territory of the Republic of Poland will be different than the declared one;
- (4) there are no grounds for which the foreigner should be refused a national visa.

2. Where the data of a foreigner applying for a national visa extension has been entered in the Schengen Information System for the purposes of refusing entry, a national visa may be extended only if there are compelling reasons, in particular for humanitarian reasons or because of international commitments, taking into account the interest of the state that has made the entry in the Schengen Information System.

Article 83. Where the data of a foreigner applying for a national visa extension has been entered in the Schengen Information System for the purposes of refusing entry and there are compelling reasons for extension of such a visa, the voivode who examines the application for a national visa extension shall obtain the opinion referred to in Article 25(1) of the Convention implementing the Schengen Agreement, via the Commander-in-Chief of the Police, and shall notify the competent authority of another Schengen state, via the Commander-in-Chief of the Police, of a national visa extension.

Article 84. 1. A Schengen visa or a national visa shall be extended or refused to be extended by the voivode competent with respect to the place of residence of the foreigner, by way of decision.

2. A national visa may be extended once, whereby the period of stay on the basis of an extended national visa may not be longer than the period of stay provided for in a national visa.

3. The provision of paragraph 2 shall not apply to a foreigner staying in hospital, whose health condition prevents him/her from leaving the territory of the Republic of Poland.

4. A foreigner referred to in paragraph 3 shall have his/her national visa or the period of stay covered by such a visa extended until the date on which his/her health condition allows him/her to leave the territory of the Republic of Poland.

5. In the case referred to in paragraphs 3 and 4, the voivode may appoint a medical expert for the purposes of rendering an opinion whether the health condition of the foreigner prevents him/her from leaving the territory of the Republic of Poland.

Article 85. 1. A foreigner who intends to extend the period of his/her stay on the basis of a Schengen visa or a national visa, shall file, not later than on the date of expiry of the period of his/her legal stay in the territory of the Republic of Poland, a completed application form for visa extension.

2. The form referred to in paragraph 1 shall include:

- (1) the foreigner's data or the information referred to in Article 13;
- (2) the following data related to the travel document held by the foreigner:
 - (a) series and number,
 - (b) date of issue and date of expiry,

- (c) the name of the issuing authority,
- (d) the number of persons entered in the travel document,
- (3) information on Schengen visas or national visas issued to the foreigner;
- (4) reasons for the application for the visa extension;
- (5) information about foreign travels made by the foreigner and his/her stays abroad within the last 5 years;
- (6) information about financial means to cover the costs of the foreigner's subsistence;
- (7) information about health insurance held by the foreigner;
- (8) information about the foreigner's employment in the territory of the Republic of Poland.

3. To the application for a Schengen visa or national visa extension the provisions of Article 77(1)(2) and (3) and paragraphs 2 and 4 shall apply, whereas to the requirements referred to in Article 77(1)(3)(c) or paragraph 2, the provision of Article 25 (4) shall apply.

4. A foreigner applying for a Schengen visa or a national visa extension shall produce for inspection a travel document to which the provisions of Article 77 (5) and (6) shall apply.

Article 86. Where a foreigner has filed an application for a Schengen visa or a national visa extension after the deadline referred to in Article 85(1), it shall be refused to initiate the proceedings on the extension of such a visa.

Article 87. 1. Where the deadline for filing an application for a Schengen visa or a national visa extension has been observed and the application is free from formal defects, or formal defects have been remedied in due time:

- (1) the voivode shall put in the travel document held by the foreigner a stamp certifying that the application has been filed;
- (2) the foreigner's stay in the territory of Republic of Poland is considered legal from the date of filing the application until the date on which the decision on a Schengen visa or a national visa extension becomes final.

2. The provision of paragraph 1(2) shall not apply in the event of suspending the proceedings on a visa extension at the request of the applicant.

Article 88. 1. An extended national visa shall be affixed in the travel document in the form of a visa sticker.

2. In special cases justified by the interest of the foreigner, an extended national visa shall be placed on a separate sheet for affixing visas.

Article 89. 1. The minister competent for internal affairs, in consultation with the minister competent for foreign affairs, shall specify, by way of ordinance:

- (1) the templates of application forms for a Schengen visa or a national visa extension, as well as detailed technical requirements for a photograph attached to the application;

(2) the specimen of the stamp certifying that an application for the extension of a Schengen visa or a national visa has been filed;

(3) the method of placing a visa sticker in the case of an extended national visa in the travel document or on a separate sheet for affixing visas.

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account:

(1) the need to ensure that checks on the correctness of filing applications for a Schengen visa or a national visa extension are carried out;

(2) the need to ensure proper implementation of the visa policy and the fight against illegal immigration.

Chapter 3

Visa revocation and cancellation

Article 90. 1. A national visa shall be revoked *ex officio* if the grounds for refusal of a national visa referred to in Article 65(1)(1) and (3)-(9) occurred following its issue, or at the request of its holder.

2. Where another Schengen state obtains the opinion referred to in Article 25(2) of the Convention implementing the Schengen Agreement, the authority competent to revoke a visa shall determine whether there are grounds for revocation of a national visa granted to the foreigner and shall notify thereof, via the Commander-in-Chief of the Police, the competent authority of that state.

Article 91. A national visa shall be cancelled if, at the time of its issue, there were grounds for its refusal.

Article 92. 1. A Schengen visa or a national visa shall be revoked or cancelled, by way of decision, by:

(1) a consul;

(2) the commanding officer of a Polish Border Guard unit;

(3) the commanding officer of a Polish Border Guard outpost.

2. A Schengen visa or a national visa issued to a member of the staff of a diplomatic mission or a consular post of a foreign state or another person treated equally in terms of privileges and immunities under applicable laws, treaties or commonly recognised international customs, as well as to members of their families, shall be revoked or cancelled by the minister competent for foreign affairs, who shall forward a relevant note to the ministry of foreign affairs of the foreign state or its diplomatic mission.

Article 93. 1. A decision on revocation or cancellation of a Schengen visa or a national visa rendered by:

(1) a consul – may be appealed against with a request for re-examination of the case by this authority;

(2) the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost – may be appealed against to the Commander-in-Chief of the Polish Border Guard.

2. A request for re-examination of the case by a consul shall be made within 14 days from the date of delivering a decision on revocation or cancellation of a Schengen visa or a national visa.

3. The consul shall examine the request referred to in paragraph 2 with 7 days.

Article 94. 1. A decision on revocation or cancellation of a Schengen visa or a national visa shall be immediately enforceable.

2. A decision on revocation or cancellation of a national visa shall be delivered on a relevant form.

3. The rendition of a decision on revocation or cancellation of a Schengen visa or a national visa shall be acknowledged in the travel document or on a separate sheet for affixing visas.

Article 95. The authority that has revoked or cancelled a national visa issued for the purpose of performing work shall notify thereof the staroste competent with respect to the place of residence of the foreigner, once the decision in this regard becomes final.

Article 96. 1. The authority that revoked or cancelled a Schengen visa issued by another Schengen state pursuant to Article 34(1)-(3) of the Community Visa Code, shall notify thereof the competent authority of the state which issued the visa.

2. Pursuant to Article 34(1)-(3) of the Community Visa Code, the Commander-in-Chief of the Polish Border Guard shall be the authority competent to gather information on Schengen visas issued by Polish authorities which have been revoked or cancelled by authorities of other Schengen states.

Article 97. 1. The minister competent for internal affairs, in consultation with the minister competent for foreign affairs, shall specify, by way of ordinance:

(1) the method of acknowledgement by a consul, the minister competent for foreign affairs, the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost that a decision on revocation or cancellation of a Schengen visa or a national visa has been rendered, in the travel document or on a separate sheet for affixing visas.

(2) the template of the form on which a decision on revocation or cancellation of a national visa shall be delivered.

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account the need to properly implement the visa policy and the need for the fight against illegal immigration, and shall provide for control of the procedures referred to in paragraph 1(2).

SECTION V

Temporary residence permit

Chapter 1

General Provisions

Article 98. 1. A temporary residence permit shall be granted to a foreigner or – in the cases referred to in Article 160, Article 181 and Article 187 – may be granted at his/her request, if he/she meets the requirements set out with regard to the declared purpose of the stay, and the grounds for applying for a permit justify his/her stay in the territory of the Republic of Poland for a period longer than 3 months.

2. A temporary residence period shall be granted for a period necessary for the accomplishment of the purpose of the foreigner's stay in the territory of the Republic of Poland, no longer, however, than 3 years.

Article 99. 1. Initiation of the proceedings on granting a temporary residence permit shall be refused if the foreigner:

- (1) has been granted a permanent residence permit or a long term resident's EU residence permit, or
- (2) resides in the territory of the Republic of Poland on the basis of a Schengen visa authorising him/her only to enter this territory for the purpose referred to in Article 60(1)(23), or
- (3) resides in the territory of the Republic of Poland on the basis of a temporary residence permit, granted in the cases referred to in Article 181(1), or
- (4) has been granted a permit for tolerated stay, a permit for stay for humanitarian reasons, asylum, subsidiary protection or temporary protection, or has been granted refugee status in the Republic of Poland, or
- (5) is applying for refugee status or asylum, or
- (6) has been detained, placed in a guarder centre or in a detention centre for foreigners, or a preventive measure in the form of a ban on leaving the country has been applied in relation to him/her, or
- (7) is serving a sentence of imprisonment or detention, or
- (8) has been obliged to comply with the return obligation and the deadline for voluntary return set out in the decision on imposing the return obligation on the foreigner has not passed yet, also when this period has been extended, or
- (9) is obliged to leave the territory of the Republic of Poland in the cases referred to in Article 299(6), or
- (10) resides outside the borders of the Republic of Poland, or
- (11) has not have his/her fingerprints taken for the purposes of being granted a residence card, in spite of being obliged to comply with this requirement while filing an application for a temporary residence permit.

2. The provision of paragraph 1(10) shall not apply where the foreigner files an application for a temporary residence permit for the purposes of family reunification.

Article 100. 1. A foreigner shall be refused a temporary residence permit if:

- (1) he/she does not meet the requirements for being granted a temporary residence permit due to the declared purpose of the stay or the grounds for applying for such a permit do not justify his/her stay in the territory of the Republic of Poland for a period longer than 3 months, or
- (2) his/her data has been entered in the register of foreigners whose stay in the territory of the Republic of Poland is undesirable, or
- (3) his/her data is entered in the Schengen Information System for the purposes of refusing entry, or

- (4) it is justified by national security or defence, or by the protection of public safety and order, or
- (5) in the course of the proceedings on granting him/her a temporary residence permit, the foreigner:
 - (a) filed an application containing false personal data or false information or attached documents containing such data or information to the application, or
 - (b) testified untruthfully or concealed the truth, or forged or modified a document in order to use it as an authentic one, or used such a document as an authentic one, or
- (6) is in arrears with the payment of taxes, except in cases where he/she has been legally entitled to exemption, deferment, spread of outstanding payments into instalments, or if the execution of a decision of a competent authority has been withheld in its entirety, or
- (7) has not reimbursed the costs related to the issue and enforcement of a decision on imposing the return obligation on the foreigner, which were covered from the state budget, or
- (8) is subject to the treatment obligation pursuant to Article 40(1) of the Act of 5 December 2008 on the prevention and control of infections and infectious diseases in humans but does not express consent for such treatment, or
- (9) has filed the application during an illegal stay in the territory of the Republic of Poland or is staying in this territory illegally.

2. A foreigner may be refused a further temporary residence permit where he/she has failed to meet the obligation referred to in Article 113, if he/she has filed an application for a further temporary residence permit within 1 year from the expiry of the previous permit.

Article 101. A temporary residence permit granted to a foreigner shall be revoked where:

- (1) the purpose of the stay which was the reason for granting the temporary residence permit ceased to exist, or
- (2) the foreigner has ceased to meet the requirements for granting him/her a temporary residence permit due to the declared purpose of the stay, or
- (3) at least one of the grounds referred to in Article 100(1)(2) or (4)-(8) has occurred.

Article 102. A temporary residence permit shall expire by operation of law as of the date on which the foreigner is granted a further temporary residence permit, a permanent residence permit, a long-term resident's EU residence permit or Polish citizenship.

Article 103. As far as the proceedings on granting the foreigner a temporary residence permit or revoking such a permit granted to him/her are concerned, to the implementation of procedures aimed at determining the grounds referred to in Article 100(1)(5), the provision of Article 79 of the Code of Administrative Proceedings shall not apply.

Article 104. A temporary residence permit shall be granted, refused to be granted or revoked by the voivode competent with respect to the place of residence of the foreigner, by way of decision.

Article 105. 1. A foreigner shall file an application for a temporary residence permit in person, no later than on the last day of his/her lawful stay in the territory of the Republic of Poland.

(2) Where the application for a temporary residence permit has not been filed by the foreigner in person, the voivode shall summon him/her to appear in person within 7 days, under pain of not examining the application.

(3) In the case of a foreigner who is:

(1) a minor – an application for granting him/her a temporary residence permit shall be filed by the parents or guardians appointed by the court, or one of the parents or one of the guardians appointed by the court;

(2) a totally incapacitated person – an application for granting him/her a temporary residence permit shall be filed by a guardian appointed by the court;

(3) an unattended minor – an application for granting him/her a temporary residence permit shall be filed by a guardian.

(4) In the case of filing an application for granting a temporary residence permit to a minor foreigner over 6 years of age, the presence of such a minor is required.

Article 106. 1. A foreigner shall file an application for a temporary residence permit on a form including:

(1) the foreigner's data or information referred to in Article 13;

(2) the following data related to the travel document:

(a) series and number,

(b) date of issue and expiry,

(c) the name of the issuing authority,

(d) the number of persons entered in the travel document;

(3) the following information concerning the entity entrusting the performance of work and the user employer:

(a) the name or the first name and surname,

(b) address of the registered seat or place of residence,

(c) legal grounds for carrying out business activity, the name of the register and the number of the entry in the register, and – in the case of natural persons not running business activity – the name of the identity document, its series and number,

(d) tax identification number (NIP),

(e) PESEL number,

(f) REGON number;

(4) the following details of the person authorised for contact with respect to the application by the entity entrusting the performance of work:

- (a) the first name, surname and position,
 - (b) phone number,
 - (c) fax number,
 - (d) email address;
- (5) information concerning the work to be entrusted to the foreigner:
- (a) position or type of work,
 - (b) place where the work will be performed,
 - (c) legal grounds for the performance of the work,
 - (d) working time,
 - (e) salary,
 - (f) scope of basic duties to be performed on this position,
 - (g) requirements as regards higher professional qualifications;
- (6) the first name and surname, date of birth, sex, citizenship and place of residence of members of the foreigner's family residing in the territory of the Republic of Poland, specifying the degree of kinship, as well as information about applying by them for a temporary residence permit and whether they remain dependent on the foreigner;
- (7) information about the foreigner's previous stays and current stay in the territory of the Republic of Poland;
- (8) information about foreign travels made by the foreigner and his/her stays abroad within the last 5 years;
- (9) information about residing by the foreigner in another European Union Member State for at least 18 months on the basis of a residence permit issued by such a state with an annotation "Niebieska Karta UE" ("EU Blue Card");
- (10) information about financial means to cover the costs of the foreigner's subsistence;
- (11) information about health insurance held by the foreigner;
- (12) information about the declared purpose of the foreigner's stay in the territory of the Republic of Poland;
- (13) information whether the foreigner has been detained, placed in a guarded centre or in a detention centre for foreigners, banned to leave the country, sentenced to imprisonment or detention;
- (14) information about the foreigner's obligations arising from court judgements, rulings and administrative decisions, including maintenance obligations in the territory of the Republic of Poland or outside this territory;
- (15) the specimen signature of the foreigner.

2. When applying for a temporary residence permit, the foreigner shall state the reasons for this application, make – under pain of prosecution for testifying untruthfully – a written representation that the data included in the application is true, and he/she shall submit a valid travel document to which he/she shall attach:

(1) a recent photograph;

(2) documents necessary to verify the details included in the application and the grounds for applying for a temporary residence permit.

3. In particularly justified cases, if the foreigner is not in possession of a valid travel document and is unable to obtain it, he/she can produce another proof of identification.

4. A foreigner applying for a temporary residence permit shall have his/her fingerprints taken.

Article 107. 1. The minister competent for internal affairs shall specify, by way of ordinance:

(1) the template of the application form for a temporary residence permit;

(2) the number of photographs attached to an application for a temporary residence permit and detailed technical requirements for photographs attached to the application;

(3) the specimen of the stamp certifying that an application for a temporary residence permit has been filed;

(4) the method of taking fingerprints for the purposes of issuing a residence permit;

(5) the method of capturing the data included in the residence permit and transferring it for the purposes of personalisation of the residence permit.

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account the need to ensure the smooth conduct of the proceedings on granting a foreigner a temporary residence permit and the ability to effectively verify the premises for granting such a permit.

Article 108. 1. Where the deadline for filing an application for a temporary residence permit has been observed and the application is free from formal defects or formal defects have been remedied in due time:

(1) the voivode shall put in the foreigner's travel document a stamp certifying that an application for a temporary residence permit has been filed;

(2) the foreigner's stay in the territory of the Republic of Poland shall be considered legal from the date of filing the application to the date on which the decision on granting a temporary residence permit becomes final.

2. The provision of paragraph 1(2) shall not apply in the event of suspending the proceedings on granting the foreigner a temporary residence permit at the request of the applicant.

Article 109. 1. Before issuing a decision on granting a foreigner a temporary residence permit, the voivode shall request the Commander-in-Chief of the Polish Border Guard, the voivodeship Police commander, the Head of the Internal Security Agency, and, if necessary, the consul competent with respect to the foreigner's last place of residence abroad or other authorities for information whether the

foreigner's entry into the territory of the Republic of Poland and his/her stay in this territory may pose a threat to national security or defence or to the protection of public safety and order.

(2) The commanders referred to in paragraph 1, the Head of the Internal Security Agency or the consul shall provide the information referred to in paragraph 1 within 30 days from receipt of the request.

(3) In particularly justified cases, the 30-day deadline may be extended to 60 days, and the authority obliged to provide information shall notify thereof the voivode.

(4) If the authority obliged to provide the information referred to in paragraph 1 fails to provide the information by the deadlines referred to in paragraphs 2 or 3, the information requirement shall be considered to have been met.

(5) The provision of paragraph 1 shall not apply to a foreigner who, as of the date of filing the application, is under 13 years of age.

Article 110. 1. Where the foreigner's data has been entered in the Schengen Information System for the purposes of refusing entry, a temporary residence permit may be issued only if there are compelling reasons for that, in particular for humanitarian reasons or because of international commitments, taking into account the interest of the state that has made the entry in the Schengen Information System.

2. In the case referred to in paragraph 1, the voivode:

(1) when examining the application for a temporary residence permit, he/she shall obtain the opinion referred to in Article 25(1) of the Convention implementing the Schengen Agreement, via the Commander-in-Chief of the Police;

(2) notifies the competent authority of another Schengen state, via the Commander-in-Chief of the Police, of granting the foreigner a temporary residence permit.

Article 111. Where another Schengen state obtains the opinion referred to in Article 25(2) of the Convention implementing the Schengen Agreement, the voivode shall establish whether there are premises for revoking the temporary residence permit granted to the foreigner and notifies thereof, via the Commander-in-Chief of the Police, the competent authority of that state.

Article 112. 1. The voivode or the Head of the Office shall notify the Polish Border Guard authority competent with respect to the place of residence of the foreigner of refusal to grant or revocation of his/her temporary residence permit, once the decision in this regard becomes final.

2. In the case referred to in paragraph 1, the competent authority of the Polish Border Guard shall establish whether there are premises for issuing a decision on imposing the return obligation on the foreigner.

Article 113. A foreigner who has been granted a temporary residence permit shall notify the voivode who has issued such a permit, within 15 working days, of the cessation of the reason for granting the permit.

Chapter 2

Temporary residence and work permit

Article 114. 1. A temporary residence and work permit shall be granted where the purpose of the foreigner's stay in the territory of the Republic of Poland is to perform work, and when each of the following conditions is met:

- (1) the foreigner has:
 - (a) health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, or a document certifying that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer,
 - (b) a source of steady and regular income sufficient to cover the cost of subsistence for the foreigner himself/herself and family members dependent on him/her;
- (2) guaranteed place of accommodation in the territory of the Republic of Poland;
- (3) the entity entrusting the performance of work is unable to satisfy its staffing needs within the local labour market;
- (4) the salary specified in the written agreement concluded by the foreigner with the entity entrusting the performance of work, based on which the work is to be performed, is not lower than the salary of employees performing work of comparable type on a comparable position within the same working time.

2. The amount of the monthly income referred to in paragraph 1(1)(b) shall be higher than the amount of income which entitles to cash benefits from the social assistance system, specified in the Act of 12 March 2004 on social assistance (Dz. U. of 2013, item 182, as amended¹⁸), with respect to the foreigner and each family member dependent on him/her.

3. The provision of paragraph 1(3) shall not apply if:

- (1) the profession practiced by the foreigner in the framework of the work entrusted to him/her, or the type of work entrusted to him/her, is entered in the list referred to in Article 10(4)(1) of the Act of 20 April 2004 on employment promotion and labour market institutions, or
- (2) immediately before filing the application, the foreigner held a work permit or a residence permit and a work permit which was granted to him/her with respect to the same employer for the same job, or
- (3) the foreigner meets the conditions specified in the regulations issued pursuant to Article 90(5) of the Act of 20 April 2004 on employment promotion and labour market institutions, or
- (4) the foreigner meets the conditions for exemption from the obligation to obtain a work permit, as defined by separate regulations.

4. The provision of paragraph 1(4) shall not apply if the foreigner meets the conditions for exemption from the obligation to obtain a work permit, as defined by separate regulations.

¹⁸ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2012, items 1544 and 1548 and of 2013, item 509.

Article 115. Obtaining a temporary residence and work permit shall not exempt the foreigner from compliance with requirements for pursuing regulated professions or trades, as defined by separate regulations.

Article 116. Apart for the cases referred to in Article 99(1), initiation of the proceedings on granting a foreigner a temporary residence and work permit shall be refused if the foreigner:

- (1) is an employee seconded to work in the territory of the Republic of Poland for a definite time by an employer established outside the Republic of Poland – throughout the period of delegation, or
- (2) has entered the territory of the Republic of Poland under commitments specified in international agreements on facilitating the entry and temporary stay of certain categories of trade and investment-related natural persons, or
- (3) carries out business activity in the territory of the Republic of Poland.

Article 117. Apart for the cases referred to in Article 100, a foreigner shall be refused a temporary residence and work permit if:

- (1) the entity entrusting the performance or work:
 - (a) has been convicted by a final judgement for the offence referred to in Article 120(1) of the Act of 20 April 2004 on employment promotion and labour market institutions, and has been penalised again for a similar offence with 2 years from the judgement, or
 - (b) has been convicted by a final judgement for the offences referred to in Article 120(3)-(5) of the Act of 20 April 2004 on employment promotion and labour market institutions, or
 - (c) is a natural person convicted by a final judgement for the offence referred to in Articles 218-221 of the Act of 6 June 1997 – Criminal Code (Dz. U. No. 88, item 553, as amended¹⁹), hereinafter referred to as "Criminal Code", or
 - (d) is a natural person convicted by a final judgement for a criminal offence referred to in Articles 270-275 of the Criminal Code, committed in connection with the proceedings on granting a work permit, or is an entity managed or controlled by such a natural person, or
 - (e) is a natural person convicted by a final judgement for the offence referred to in Article 9 or Article 10 of the Act of 15 June 2012 on the consequences of entrusting the performance of work to foreigners residing unlawfully in the territory of the Republic of Poland, or

¹⁹ Amendments to the Act were promulgated in Dz. U. of 1997, No. 128, item 840, of 1999, No. 64, item 729 and No. 83, item 931, of 2000, No. 48, item 548, No. 93, item 1027 and No. 116, item 1216, of 2001, No. 98, item 1071, of 2003, No. 111, item 1061, No. 121, item 1142, No. 179, item 1750, No. 199, item 1935 and No. 228, item 2255, of 2004, No. 25, item 219, No. 69, item 626, No. 93, item 889 and No. 243, item 2426, of 2005, No. 86, item 732, No. 90, item 757, No. 132, item 1109, No. 163, item 1363, No. 178, item 1479 and No. 180, item 1493, of 2006, No. 190, item 1409, No. 218, item 1592 and No. 226, item 1648, of 2007, No. 89, item 589, No. 123, item 850, No. 124, item 859 and No. 192, item 1378, of 2008, No. 90, item 560, No. 122, item 782, No. 171, item 1056, No. 173, item 1080 and No. 214, item 1344, of 2009, No. 62, item 504, No. 63, item 533, No. 166, item 1317, No. 168, item 1323, No. 190, item 1474, No. 201, item 1540 and No. 206, item 1589, of 2010, No. 7, item 46, No. 40, item 227 and 229, No. 98, item 625 and 626, No. 125, item 842, No. 127, item 857, No. 152, items 1018 and 1021, No. 182, item 1228, No. 225, item 1474 and No. 240, item 1602, of 2011, No. 17, item 78, No. 24, item 130, No. 39, item 202, No. 48, item 245, No. 72, item 381, No. 94, item 549, No. 117, item 678, No. 133, item 767, No. 160, item 964, No. 191, item 1135, No. 217, item 1280, No. 233, item 1381 and No. 240, item 1431, of 2012, item 611 and of 2013, items 849, 905, 1036 and 1247.

- (f) has been convicted by a final judgement for the offence referred to in Article 11 of the Act of 15 June 2012 on the consequences of entrusting the performance of work to foreigners residing unlawfully in the territory of the Republic of Poland, or
- (2) the foreigner:
 - (a) does not meet the qualification requirements and other conditions for entrusting him/her the performance of work in a regulated profession within the meaning of Article 2(1) of the Act of 18 March 2008 on principles of recognition of professional qualifications acquired in EU Member States (Dz. U. No. 63, item 394), or
 - (b) has been convicted by a final judgement for a criminal offence referred to in Articles 270-275 of the Criminal Code, committed in connection with the proceedings on granting him/her a work permit or a temporary residence and work permit.

Article 118. 1. In a decision on granting a foreigner a temporary residence and work permit, apart for the period covered by such a permit, the following shall be specified:

- (1) the entity entrusting the performance or work, and – if the foreigner is to be a temporary worker – the user employer;
- (2) the position on which the foreigner is to perform work;
- (2) the minimum wage which the foreigner can receive on this position;
- (3) working time;
- (4) the type of agreement under which the foreigner is to perform work.

2. Where several entities entrusting the performance of work are indicated in the decision, the conditions of performing work referred to in paragraph 1 shall be specified separately for each entity.

3. The provision of paragraph 1 shall not apply if the foreigner meets the conditions for exemption from the obligation to obtain a work permit, as defined by separate regulations.

4. In the case referred to in paragraph 3, the decision on granting a temporary residence and work permit shall include, apart from specifying the validity period of the permit, information that the foreigner is entitled to perform work under the conditions specified in the regulation which is the basis for exemption from the obligation to obtain a work permit.

Article 119. Change of the registered office or place of residence, the name or legal form of the entity entrusting the performance of work or take-over of the employer or part thereof by another employer shall not require introducing an amendment in the temporary residence and work permit or issuing a new permit.

Article 120. 1. At the foreigner's request, a temporary residence and work permit may be amended at any time by the voivode competent with respect to the foreigner's current place of residence if the foreigner intends to perform work for another user employer or under conditions other than those specified in Article 118(1)(2)-(5).

2. The voivode may refuse to amend a temporary residence and work permit if:

- (1) the foreigner does not meet the conditions referred to in Article 114 (1)(1) or (2), or
- (2) the entity entrusting the performance of work does not meet the conditions referred to in Article 114(1)(3) or (4).
- (3) The voivode shall refuse to amend a temporary residence and work permit if the period of validity of the permit to be amended permit exceeds 3 years.

Article 121. A foreigner residing in the territory of the Republic of Poland on the basis of a temporary residence and work permit shall, within 15 working days, notify in writing the voivode competent with respect to the foreigner's current place of residence of the loss of a job at any of the entities entrusting the performance of work indicated in the permit.

Article 122. Apart from the cases referred to in Article 101, the voivode shall revoke a temporary residence and work permit if the position specified in the permit has changed or the wage has been reduced and the permit has not been amended.

Article 123. 1. The provisions of Article 101(1) and (2) shall not apply within 30 days from the date of the loss of a job at the entity entrusting the performance of work indicated in the permit:

- (1) if the foreigner proves that he/she has complied with the notification obligation referred to in Article 121, or

- (2) if the notification referred to in Article 121 has not been served to the voivode for reasons beyond the control of the foreigner.

2. To the loss of jobs at all entities entrusting the performance of work, indicated in the permit, the provision of paragraph 1 shall apply not more than once during the validity period of the permit.

Article 124. The voivode shall notify the staroste competent with respect to the foreigner's place of residence of revocation of the temporary residence and work permit granted to the foreigner once the decision in this regard becomes final.

Article 125. 1. To establishing whether the entity entrusting the performance or work is unable to satisfy its staffing needs within the local labour market the provisions of Article 88c(1)(2) and Article 88c(2) of the Act of 20 April 2004 on employment promotion and labour market institutions shall apply.

2. The information referred to in Article 88c(1)(2) of the Act of 20 April 2004 on employment promotion and labour market institutions shall be requested by the entity entrusting the performance of work.

3. The information referred to in Article 88c(1)(2) of the Act of 20 April 2004 on employment promotion and labour market institutions shall be attached by the foreigner to an application for granting or amending a temporary residence and work permit.

Article 126. 1. Where the performance of work in the territory of the Republic of Poland consists in serving by the foreigner on the management board of a legal person to be entered in the register of entrepreneurs, and the foreigner does not hold shares of such a legal person, a temporary residence and work permit shall be granted provided the foreigner meets the conditions specified in Article 114(1)(1)

and (2), and the entity which he/she manages or will manage complies with the requirements referred to in Article 142(1)(3).

2. To the permit referred to in paragraph 1 the provision of Article 115, Article 117 and Article 118 1(1) and (2) shall apply.

Chapter 3

Temporary residence permit for the purposes of highly qualified employment

Article 127. A temporary residence permit for the purposes of highly qualified employment shall be granted where the foreigner's stay in the territory of the Republic of Poland is due to highly qualified employment and each of the following conditions is met:

(1) the foreigner:

- (a) has concluded, for a period of minimum one year, 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,
- (b) meets the qualification requirements and other conditions to be met where the he/she is to perform work in a regulated profession within the meaning of Article 2(1) of the Act of 18 March 2008 on principles of recognition of professional qualifications acquired in EU Member States,
- (c) has higher professional qualifications,
- (d) has health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, or a document certifying that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer,
- (e) has an authorisation of the competent authority to hold a given position, pursue a given profession or other activity, where the obligation to obtain it prior to entering into an agreement stems from separate regulations;

(2) the entity entrusting the performance of work to the foreigner is unable to satisfy its staffing needs within the local labour market;

(3) annual gross remuneration resulting from the monthly or annual salary, specified in the agreement, shall not be lower than the minimum wage specified in regulations issued pursuant to Article 139.

Article 128. The permit referred to in Article 127 shall be granted for a period longer by 3 months than the period when work is to be performed, not longer, however, than 3 years.

Article 129. The provision of Article 127(2) shall not apply if:

(1) the profession pursued by the foreigner within the work entrusted to him/her or the type of work entrusted to him/her is entered in the list of professions and types of work referred to in Article 10(4)(1) of the Act of 20 April 2004 on employment promotion and labour market institutions, or

- (2) immediately before filing the application, the foreigner held a work permit or a residence and work permit, or the permit referred to in Article 127, granted with respect to the same entity entrusting him/her the performance of work on the same position, or
- (3) the foreigner has already been legally employed in the territory of the Republic of Poland for a period of 2 years on the basis of the permit referred to in Article 127, or
- (4) the foreigner meets the conditions specified in regulations issued pursuant to Article 90(5) of the Act of 20 April 2004 on employment promotion and labour market institutions, or
- (5) the foreigner meets the conditions for exemption from the obligation to obtain a work permit, as defined by separate regulations.

Article 130. Obtaining the permit referred to in Article 127 shall not exempt the foreigner from compliance with the requirements for pursuing regulated professions or trades, as defined by separate regulations.

Article 131. Apart from the cases referred to in Article 99, initiation of the proceedings on granting the permit referred to in Article 127 shall be refused if the foreigner:

- (1) is applying for the permit referred to in Article 151, or holds such a permit, or
- (2) is an employee of an undertaking established in another European Union Member State and has been temporarily seconded by the employer to provide services in the territory of the Republic of Poland, or
- (3) has entered the territory of the Republic of Poland under commitments specified in an international agreement on facilitating the entry and temporary stay of certain categories of trade and investment-related natural persons, or
- (4) holds the permit referred to in Article 186(1)(3)(a).

Article 132. Apart from the cases referred to in Article 100(1)(1)-(5), (8) and (9), a foreigner shall be refused the permit referred to in Article 127 if the grounds referred to in Article 117(1)(a) or (b) occur.

Article 133. 1. Apart from the cases referred to in Article 101, a foreigner shall have the permit referred to in Article revoked if he/she does not observe the restriction on access to the labour market specified in Article 135(2).

2. The provisions of Article 101(1) or (2) shall not apply if each of the following conditions is met:

- (1) the foreigner remains unemployed for maximum 3 months within the period of validity of the permit referred to in Article 127;
- (2) period during which the foreigner remains unemployed has occurred maximum 2 times within the period of validity of the permit;
- (3) the foreigner proves that he/she has complied with the notification requirement referred to in Article 134(1), or that the notification has not been served to the voivode for reasons beyond the control of the foreigner.

Article 134. 1. A foreigner residing in the territory of the Republic of Poland on the basis of the permit referred to in Article 127 shall, within 15 working days, notify in writing the voivode competent with respect to the foreigner's current place of residence of the loss of his/her job.

2. Where during the first two years of the foreigner's stay in the territory of the Republic of Poland on the basis of the permit referred to in Article 127, a change in the conditions of work specified in the work permit, referred to in Article 137(4) occurred, the foreigner shall, within 15 working days, notify thereof the authority referred to in paragraph 1.

3. Where after the first two years of the foreigner's stay in the territory of the Republic of Poland on the basis of the permit referred to in Article 127, there has been a change as regards the position held by the foreigner, his/her salary has been reduced or there has been a change to the minimum working time and type of the agreement under which the foreigner performs work, the foreigner shall, within 15 working days, notify thereof the authority referred to in paragraph 1.

Article 135. 1. At the foreigner's request, the permit referred to in Article 127 may be amended, at any time, by the voivode competent with respect to the foreigner's current place of residence where the foreigner intends to start work for an entity other than that indicated in the permit, intends to change the position or will be earning a salary lower than that specified in the permit.

2. During the first two years of the foreigner's stay in the territory of the Republic of Poland on the basis of the permit referred to in Article 127:

- (1) the foreigner may not commence work for an entity other than that specified in the permit,
- (2) the foreigner may not change the position on which he/she is employed,
- (3) the foreigner may not be paid a salary lower than that specified in the permit

– without an amendment to the permit.

3. Amendment to the permit referred to in Article 127 shall not be required in case of change of the name or legal form of the entity entrusting the performance of work to the foreigner, also where the establishment where the foreigner is employed or part thereof has been taken over by another entity.

4. The voivode shall refuse to amend the permit referred to in Article 127 if:

- (1) the period during which the foreigner remains unemployed:
 - (a) is longer than 3 months from the date of the loss of his/her job to the date of filing by the foreigner an application for amending the permit due to change of the entity entrusting him/her the performance of work, or
 - (b) has occurred more than 2 times within the period of validity of the permit, or
- (2) the foreigner has failed to notify the voivode of the loss of his/her job by the deadline specified in Article 134(1), or
- (3) the foreigner has ceased to meet the conditions referred to in Article 127(1), or
- (4) the entity that will entrust the performance of work to the foreigner does not meet the conditions referred to in Article 127(2) or (3), or

(5) the period of validity of the amended permit exceeds 3 years.

Article 136. 1. To establishing whether the entity entrusting the performance or work is unable to satisfy its staffing needs within the local labour market the provisions of Article 88c(1)(2) and Article 88c(2) of the Act of 20 April 2004 on employment promotion and labour market institutions shall apply.

2. The information referred to in Article 88c(1)(2) of the Act of 20 April 2004 on employment promotion and labour market institutions shall be requested by the entity entrusting the performance or work.

3. The information referred to in Article 88c(1)(2) of the Act of 20 April 2004 on employment promotion and labour market institutions shall be attached by the foreigner to an application for granting him/her the permit referred to in Article 127 or amending it.

Article 137. In the decision on granting a foreigner the permit referred to in Article 127, the period of validity of such a permit and the following shall be specified:

- (1) the entity for whom the foreigner is to perform work;
- (2) the position on which the foreigner is to be employed;
- (3) the foreigner's salary;
- (4) minimum working time and the type of agreement under which the foreigner is to perform work.

Article 138. The voivode shall provide the Head of the Office with a copy of the decision on:

- (1) granting, refusal to grant or revocation of the permit referred to in Article 127 granted to a foreigner who resided for the last 18 months another European Union Member State on the basis of the residence permit referred to in Article 1(2)(a) of Regulation No 1030/2002, with an annotation "Niebieska Karta UE" ("EU Blue Card");
- (2) granting a long-term resident's EU residence permit to a holder of the permit referred to in Article 127.

Article 139. The minister competent for internal affairs, in consultation with the minister competent for labour, shall specify, by way of ordinance, the minimum wage required to grant a foreigner the permit referred to in Article 127, in such a way that the minimum wage is not lower than the equivalent of 150% of the average monthly wage and salary in the national economy in the preceding calendar year, calculated in accordance with the announcement of the President of the Central Statistical Office for a given calendar year pursuant to Article 20(1)(a) of the Act of 17 December 1998 on old-age and disability pensions from the Social Insurance Fund (Dz. U. of 2013, item 1440).

Chapter 4

Temporary residence permit for the purposes of performing work by a foreigner seconded by a foreign employer to the territory of the Republic of Poland

Article 140. 1. A temporary residence permit for the purposes of performing work by a foreigner seconded by a foreign employer to the territory of the Republic of Poland shall be granted to a foreigner if he/she:

- (1) holds a work permit within the meaning of the Act of 20 April 2004 on employment promotion and labour market institutions or a written declaration of an employer of his/her intent to entrust work to him/her, where a work permit is not required;
- (2) has health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds or a document certifying that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer;
- (3) has a source of steady and regular income sufficient to cover the costs of subsistence for the foreigner himself/herself and family members dependent on him/her;
- (4) has a guaranteed place of accommodation in the territory of the Republic of Poland.

2. To establishing whether a foreigner applying for the permit referred to in paragraph 1 has the income referred to in paragraph 1(3) the provision of Article 114(2) shall apply.

Article 141. The provision of Article 100(1)(9) shall not apply to a foreigner temporarily seconded to provide services in the territory of the Republic of Poland by an employer established in another European Union Member State, a European Free Trade Association (EFTA) member state – a party to the Agreement on the European Economic Area or the Swiss Confederation, authorised to stay and be employed in the territory of that state.

Chapter 5

Temporary residence permit for the purposes of conducting business activity

Article 142. 1. A temporary residence permit for the purposes of conducting business activity shall be granted to a foreigner if the purpose of his/her stay in the territory of the Republic of Poland is to conduct business activity in accordance with the laws applicable in this regard in this territory, and if the following conditions are met:

- (1) the foreigner has:
 - (a) health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, or a document certifying that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer,
 - (b) a source of steady and regular income sufficient to cover the costs of subsistence for the foreigner himself/herself and family members dependent on him/her,
 - (c) 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;
- (2) the foreigner has a guaranteed place of accommodation in the territory of the Republic of Poland;
- (3) the entity conducting business activity:
 - (a) generated, in the tax year preceding the submission of an application for granting the foreigner a temporary residence permit for the purposes of conducting business activity by the foreigner, income in an amount not lower than 12-fold of the average monthly wage in the voivodeship in which this entity is established or domiciled, in the third quarter of the year preceding the submission of the application, announced by the President of the

Central Statistical Office pursuant to Article 30(2) of the Act of 26 October 1995 on certain forms of supporting housing construction (Dz. U. of 2013 item 255), or has employed for an indefinite time and on an FTE basis, for at least 1 year preceding the submission of the application, minimum 2 employees who are Polish nationals or foreigners referred to in Article 87(1)(1)-(9) of the Act of 20 April 2004 on employment promotion and labour market institutions, or

- (b) proves that it has financial means sufficient to meet in the future the conditions specified in point (a) 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.

2. The provision of paragraph 1(3) shall apply to a limited partnership, a limited joint-stock partnership, a limited liability company or a joint-stock company created by the foreigner or a joint-stock company or a company joined by the foreigner or whose shares he/she has taken up or purchased.

3. A temporary residence permit for the purposes of conducting business activity shall be granted to a foreigner whose purpose of stay is to perform work consisting in serving on the management board of a limited liability company or a joint-stock company created by him/her or whose shares he/she has taken up or purchased, provided the foreigner meets the conditions referred to in paragraph 1(1) and (2), and the company meets the conditions referred to in paragraph 1(3).

4. To establishing whether a foreigner applying for the permit referred to in paragraph 1 has the income referred to in paragraph 1(1)(b), the provision of Article 114(2) shall apply.

5. In the proceedings on granting the permit referred to in paragraph 1 to a national of the Republic of Turkey in connection with conducting or an intention to conduct by him/her business activity on his/her own account in the territory of the Republic of Poland, under the laws in force in this respect in this territory, the provision of Article 41(1) of the Additional Protocol to the Agreement establishing an Association between the European Economic Community and Turkey (OJ L 293 of 29.12.1972, p. 4, as amended) shall apply.

Article 143. To the refusal to grant a foreigner the permit referred to in Article 142(3) the provisions of Article 117 shall apply.

Chapter 6

Temporary residence permit for the purposes of obtaining higher education

Article 144. 1. A temporary residence permit for the purposes of obtaining higher education while attending first degree studies, second degree studies, uniform Master's studies or third degree studies shall be granted to a foreigner where the purpose of his/her stay in the territory of the Republic of Poland is to undertake or continue full-time studies or full-time doctoral studies, hereinafter referred to as "studies", also when such studies are undertaken to continue or supplement studies undertaken by the foreigner in the territory of another European Union Member State, and if each of the following conditions is met:

- (1) the foreigner submits:

- (a) a document issued by the relevant higher education institution certifying that the foreigner has been admitted to studies run by it for the purposes of undertaking such studies or their continuation,
 - (b) proof of payment of the fee where the foreigner undertakes or continues paid studies;
- (2) the foreigner has:
 - (a) health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, or a document certifying that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer,
 - (b) financial means sufficient to cover the costs of subsistence and return to the country of origin or residence, or the costs of transit to a third-country that will grant the foreigner a permit for entry, as well as tuition fees.

2. A permit for the purposes of obtaining higher education while attending first degree studies, second degree studies, uniform Master's studies or third degree studies shall be granted also to a foreigner who intends to attend a preparatory course which is to enable him/her to undertake such studies conducted in the Polish language and meets the conditions specified in paragraph 1.

Article 145. 1. The first permit referred to in Article 144(1) shall be granted for a period of 15 months.

2. Where the reason for applying for the permit referred to in Article 144(1) justifies the foreigner's stay in the territory of the Republic of Poland for a period shorter than 1 year, the first permit shall be granted for the period of the duration of the academic year or studies, extended by 3 months.

3. The permit referred to in Article 144(2) shall be granted for the period of the duration of a preparatory course which is to enable the foreigner to undertake first degree studies, second degree studies, uniform Master's studies or third degree studies, extended by 3 months.

Article 146. The minister competent for higher education, in consultation with the minister competent for internal affairs, shall specify, by way of ordinance, the template of the certificate to be issued by a higher education institution confirming that a foreigner has been admitted to studies run by it for the purposes of undertaking or continuing studies, which shall include the foreigner's first name and surname, date and place of birth, citizenship, identity document number and the name of the country which issued the identification document, the name and address of the higher education institution running the studies, date of commencing education, duration of education for which the foreigner has been admitted, details concerning the form and level of studies, with a view to obtain information necessary to issue a temporary residence permit for the purposes of obtaining higher education and harmonise the data contained in the certificate and the form of the certificate.

Article 147. Apart from the cases referred to in Article 100(1)(1)-(5), (8) and (9), a foreigner shall be refused the permit referred to in Article 144 if the foreigner:

- (1) holds a temporary residence permit for the purposes of undertaking or continuing studies or vocational training referred to in Article 186(1)(3)(b), or
- (2) performs work or conducts business activity in the territory of the Republic of Poland, unless he/she is applying for a further permit referred to in Article 144.

Article 148. 1. Apart from the cases referred to in Article 100(1), a foreigner may be refused a further permit referred to in Article 144 if he/she has failed to successfully complete a year of study in prescribed time.

2. Apart from the cases referred to in Article 101, a foreigner may have a further permit referred to in Article 144 revoked if he/she has failed to successfully complete a year of study in prescribed time.

Article 149. 1. The proceedings on granting a foreigner the permit referred to in Article 144 shall be conducted taking account of the date of commencement of studies provided for in the studies curriculum, and in the manner facilitating admission, for the purposes of undertaking or continuing studies in the territory of the Republic of Poland, of foreigners who participate in EU programmes enhancing mobility towards the European Union as a target area or within the European Union.

2. The decision on granting the foreigner the permit referred to in Article 144 shall be communicated by the voivode to the rector of the university or another higher education institution running the studies indicated by the foreigner in his/her application for such a permit.

3. The rector of the university or the head of another higher education institution running the studies shall immediately notify in writing the voivode who has granted the foreigner the permit referred to in Article 144 of removing the foreigner from the students' list and of his/her failure to successfully complete a year of study in prescribed period.

Article 150. 1. The Council of Ministers shall specify, by way of ordinance:

(1) the minimum amount of financial means which a foreigner undertaking or continuing studies in the territory of the Republic of Poland needs to have at his/her disposal to cover the costs of subsistence and return to the country of origin or residence, or the costs of transit to a third country which will grant him/her a permit for entry;

(2) documents which may certify that the foreigner is able to lawfully obtain the means referred to in subparagraph 1.

2. In the ordinance referred to in paragraph 1, the Council of Ministers shall take into account the need to specify such a minimum amount of the financial means referred to in paragraph 1 that is sufficient to cover the costs of subsistence in the territory of the Republic of Poland of the foreigner himself/herself and family members dependent on him/her without recourse to the social assistance system pursuant to the Act of 12 March 2004 on social assistance.

Chapter 7

Temporary residence period for the purposes of conducting research

Article 151. 1. A temporary residence permit for the purposes of conducting research shall be granted to a foreigner who is a researcher, where the purpose of his/her stay in the territory of the Republic of Poland is to conduct research and development work under an agreement on admitting him/her for the purposes of carrying out a research project, concluded with a research institution referred to in Article 2(9) of the Act of 30 April 2010 on the principles of financing science (Dz. U. No. 96, item 615, as

amended²⁰), authorised for this purpose, by means of decision, by the minister competent for science and if the foreigner presents:

- (1) an agreement on admitting him/her for the purposes of carrying out a research project, concluded with a research institution established in the territory of the Republic of Poland;
- (2) a written declaration of the research institution, in which it commits itself to cover the costs of the foreigner's stay in the territory of the Republic of Poland, as well as the costs of enforcement of the decision on imposing the return obligation on the foreigner, covered from public funds before the lapse of a 6-month period from the expiration of the agreement, if the decision on imposing the return obligation on the foreigner is grounded on his/her illegal stay in the territory of the Republic of Poland;
- (3) proof of health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, or a document certifying that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer;
- (4) financial means sufficient to cover the costs of the foreigner's subsistence and return to the country of origin or residence, or the costs of transit to a third-country that will grant the foreigner a permit for entry, or documents certifying that he/she is in possession of such financial means.

2. A temporary residence permit for the purposes of conducting research shall be granted also to a foreigner who holds the residence permit referred to in Article 1(2)(a) of Council Regulation No 1030/2002, with an annotation "naukowiec" ("researcher"), issued by another European Union Member State, where the agreement on admitting him/her for the purposes of carrying out a research project, concluded with a competent research institution established in that state provides for carrying out research or development work also in the territory of the Republic of Poland.

3. A foreigner referred to in paragraph 2 shall produce, instead of the agreement referred to in paragraph 1(1), an agreement on admitting him/her for the purposes of carrying out a research project, concluded with a research institution established in the territory of another European Union Member State.

4. A decision on approval of the research institution shall be issued at its request for a period of 5 years, or – in particularly justified cases – for a shorter period.

5. To the extension of the approval of a research institution the provisions of paragraph 4 shall apply.

6. The minister competent for science may issue a decision on refusal to extend the approval period or on revocation of the approval of a research institution if:

- (1) the research institution has ceased to carry out research or development work, or
- (2) the research institution fails to perform the obligations referred to in Article 152(4) and Article 156, or

²⁰ Amendments to the Act were promulgated in Dz. U. of 2011, No. 84, item 455 and No. 185, item 1092 and of 2013, item 675.

(3) the agreement on admitting the foreigner for the purposes of carrying out a research project has been concluded as a result of false statements.

7. A research institution which has been refused to have the approval period extended or has had the approval revoked on the grounds referred to in paragraph 6(2) and (3) may not re-apply for an approval within 5 years from the date on which the decision on refusal to extend the approval period or revocation of the approval becomes final.

8. The up-to-date list of approved research institutions shall be published in the official journal of the minister competent for science.

Article 152. 1. A research institution shall conclude an agreement with a foreigner on admitting him/her for the purposes of carrying out a research project if:

- (1) the project has been approved by the competent authorities of the research institution;
- (2) the researcher has, for the time of his/her stay in the territory of the Republic of Poland:
 - (a) financial means sufficient to cover the costs of his/her stay and return to the country of origin or residence, or the costs of transit to a third country which will grant the foreigner a permit for entry,
 - (b) health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, or a document certifying that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer.

2. In examining the application for approval of a research project, the authorities referred to in paragraph 1(1) shall take into account:

- (1) the purpose and duration of research or development work and the financial resources necessary to carry out such research or development work;
- (2) documents attesting the researcher's qualifications that are relevant for the research or development work carried out.

3. An agreement on admitting a foreigner for the purposes of carrying out a research project shall be concluded as an employment agreement, contract for specific work or contract of mandate, which shall include, in particular:

- (1) undertaking of:
 - (a) the researcher to participate in the research project,
 - (b) the research institution – to provide the researcher with conditions enabling him/her to comply with this undertaking;
- (2) determination of the researcher's salary and conditions of his/her work.

4. The research institution shall provide the researcher with a written declaration in which it undertakes to cover the costs of the researcher's stay in the territory of the Republic of Poland, as well as the costs of enforcement of the decision on imposing the return obligation on the foreigner, covered from public funds before the lapse of a 6-month period from the expiration of the agreement, if the

decision on imposing the return obligation on the foreigner is grounded on his/her illegal stay in the territory of the Republic of Poland.

5. The agreement on admitting the foreigner for the purposes of carrying out a research project shall expire if the foreigner has been refused entry into the territory of the Republic of Poland or a temporary residence permit.

Article 153. Where the ground for applying for a temporary residence permit justifies residing by the foreigner in the territory of the Republic of Poland for a period of less than 3 years, a temporary residence permit for the purposes of conducting research shall be granted for the period of carrying out the research project or the period of carrying out research or development work in the territory of the Republic of Poland.

Article 154. A temporary residence permit for the purposes of conducting research shall be refused in the cases referred to in Article 100(1)(1)-(5), (8) and (9).

Article 155. Apart from the cases referred to in Article 99, initiation of the proceedings on granting a foreigner a temporary residence permit for the purposes of conducting research shall be refused if the foreigner:

- (1) intends to carry out, as part of PhD studies, research and development work within the meaning of Article 2(3) and (4) of the Act of 30 April 2010 on the principles of financing science or
- (2) has been seconded by a research institution established in a territory of another European Union Member State to a research institution established in the territory of the Republic of Poland.

Article 156. 1. A research institution shall immediately notify the voivode who has granted the foreigner a temporary residence permit or before whom the proceedings on granting the foreigner such a permit are conducted, of occurrences which can hinder the execution of the agreement on admitting the foreigner for the purposes of carrying out the research project.

2. Within 2 months from the expiration of the agreement, the research institution shall prepare and submit to the minister competent for science a written confirmation that all research or development work in the framework of the research project covered by the agreement on admitting the foreigner for the purposes of carrying out a research project has been carried out.

Article 157. 1. The Council of Ministers shall specify, by way of ordinance:

- (1) the minimum amount of financial means which a foreigner conducting research or development work in the territory of the Republic of Poland needs to have at his/her disposal to cover the costs of subsistence and return to the country of origin or residence, or the costs of transit to a third country which will grant him/her a permit for entry;
- (2) documents which may certify that the foreigner is able to lawfully obtain the means referred to in subparagraph 1.

2. In the ordinance referred to in paragraph 1, the Council of Ministers shall take into account the need to specify such a minimum amount of the financial means referred to in paragraph 1 that is sufficient to cover the costs of subsistence in the territory of the Republic of Poland of the foreigner himself/herself and family members dependent on him/her without recourse to the social assistance system pursuant to the Act of 12 March 2004 on social assistance.

Chapter 8

Temporary residence permit for family members of nationals of the Republic of Poland and family members of foreigners

Article 158. 1. A temporary residence permit for a family member of a national of the Republic of Poland shall be granted to a foreigner if the foreigner:

- (1) is married to a national of the Republic of Poland under Polish law, or
- (2) is a minor child of a foreigner married to a national of the Republic of Poland under Polish law and holds a temporary residence permit for a family member of a national of the Republic of Poland.

2. A foreigner holding a temporary residence permit for a family member of a national of the Republic of Poland shall be granted a further permit in the event of:

- (1) divorce or legal separation of a foreigner referred to in paragraph 1(1) if it is justified by his/her vital interest, or
- (2) widowhood of a foreigner referred to in paragraph 1(1), or
- (3) death of a parent of a minor child referred to in paragraph 1(2), if it is justified by the vital interest of such a child.

3. A temporary residence permit in the cases referred to in paragraph 2 shall be granted once for a period of maximum 3 years.

Article 159. 1. A foreigner shall be granted a temporary residence permit for the purposes of family reunification if he/she meets each of the following conditions:

1) arrives in the territory of the Republic of Poland or stays in this territory for the purposes of family reunification and is a family member of a foreigner residing in the territory of the Republic of Poland:

- (a) on the basis of a permanent residence permit,
- (b) on the basis of a long term resident's EU resident permit,
- (c) in connection with having been granted refugee status,
- (d) in connection with having been granted subsidiary protection,
- (e) for at least 2 years, on the basis of further temporary residence permits, also immediately before filing an application for being granted a temporary residence permit for a family member – on the basis of a permit granted him/her for a period of stay of no less than 1 year,
- (f) on the basis of the temporary residence permit referred to in Article 151(1),
- (g) on the basis of a temporary residence permit for the purposes of carrying out research if such a foreigner holds the residence permit referred to in Article 1(2)(a) of Council Regulation No 1030/2002, with an annotation "naukowiec" ("researcher"), issued by another European Union Member State, where the agreement on admitting the foreigner for the purposes of

carrying out a research project concluded with a competent research institution established in that state provides for carrying out research also in the territory of the Republic of Poland,

(h) on the basis of a temporary residence permit for the purposes of highly qualified employment,

(i) in connection with having been granted a residence permit for humanitarian reasons;

2. he/she has:

(a) health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, or a document confirming that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer,

(b) a source of steady and regular income sufficient to cover the costs of subsistence for the foreigner himself/herself and family members dependent on him/her;

3. a guaranteed place of accommodation in the territory of the Republic of Poland.

2. The provisions of paragraph 1(2) and (3) shall not apply to a temporary residence permit for the purposes of family reunification granted to a family member of a foreigner who has been granted refugee status or subsidiary protection, where an application for granting him/her such a permit has been filed before the lapse of a 6-month period from the date of being granted refugee status or subsidiary protection.

3. The following persons shall be considered a family member referred to in paragraph 1(1):

(1) a person married to a foreigner under Polish law;

(2) a minor child of a foreigner and a person married to him/her under Polish law, including an adopted child;

(3) a minor child of a foreigner, including an adopted child, dependent on him/her, of whom the foreigner has actual parental custody;

(4) a minor child of a person referred to in paragraph 1, including an adopted child, dependent on him/her, of whom he/she has actual parental custody.

4. A lineal ancestor of a minor foreigner who has been granted refugee status or subsidiary protection, residing unattended in the territory of the Republic of Poland, or a person responsible for such a foreigner shall also be considered his/her family member.

Article 160. A temporary residence permit may be granted to:

1) a foreigner who is a family member of a Polish national or a national of another European Union Member State, a European Free Trade Association (EFTA) member state – a party to the Agreement on the European Economic Area or the Swiss Confederation, other than that referred to in Article 2(4) of the Act of 14 July 2006 on the entry into, residence in and departure from territory of the Republic of Poland of nationals of the European Union Member States and members of their families, residing in the territory of the Republic of Poland, if the foreigner stays in this territory together with such a national – due to:

- (a) being financially dependent on him/her or staying with him/her in the same household in the country from which the foreigner has arrived, or
 - (b) serious health considerations making the foreigner require attendance by such a national – if the foreigner meets the requirements referred to in Article 159(1)(2);
- 2) a minor child of a foreigner who stays in the territory of the Republic of Poland on the basis of a national visa or a temporary residence permit, if such a child was born in the period of validity of such a national visa or a temporary residence permit, and the foreigner meets the requirements referred to in Article 159(1)(2) and (3);
- 3) a foreigner living a family life within the meaning of the Convention for the Protection of Human Right and Fundamental Freedoms signed in Rome on 4 November 1950 (Dz. U. of 1993 No. 61, item 284, as amended²¹), with a Polish national or a national of another European Union Member State, a European Free Trade Association (EFTA) member state – a party to the Agreement on the European Economic Area or the Swiss Confederation, residing in the territory of the Republic of Poland, with whom the foreigner resides together in this territory, if the foreigner meets the requirements referred to in Article 159(1)(2).

Article 161. 1. A temporary residence permit shall be granted to a foreigner who meets the requirements referred to in Article 159(1)(2) and (3), and who:

(1) is married, under Polish law, to a foreigner residing in the territory of the Republic of Poland, on the basis of:

- (a) one of the premises referred to in Article 159(1)(1)(a)-(g) and (i), and resides in this territory,
- (b) the permit referred to in Article 159(1)(1)(h), and has been residing in this territory or the territory of another European Union Member State

– for minimum 5 years on the basis of temporary residence permits for the purposes of family reunification;

2) is an adult child of a foreigner residing in the territory of the Republic of Poland on the basis of:

- (a) one of the premises referred to in Article 159(1)(1)(a)-(g) and (i), and resides in this territory,
- (b) the permit referred to in Article 159(1)(1)(h), and has been residing in this territory or the territory of another European Union Member State

– for minimum 5 years on the basis of temporary residence permits for the purposes of family reunification.

2. A foreigner who stays in the territory of the Republic of Poland on the basis of a temporary residence permit for the purposes of family reunification shall be granted a temporary residence permit if it is justified by the his/her vital interest, in the event of:

²¹ Amendments to the Convention were promulgated in Dz. U. of 1995, No. 36, items 175, 176 and 177, of 1998, No. 147, item 962, of 2001, No. 23, item 266, of 2003, No. 42, item 364 and of 2010, No. 90, item 587.

(1) divorce, legal separation or becoming widowed by such a foreigner if he/she was married under Polish law to a foreigner residing in the territory of the Republic of Poland, on the grounds of the premises referred to in Article 159(1)(1), or

(2) the death of his/her parent who was a foreigner residing in the territory of the Republic of Poland on the grounds of one of the premises referred to in Article 159(1)(1), or

(3) the death of his/her minor child who has been granted refugee status or subsidiary protection.

3. The period of stay referred to in paragraph 1(1)(b) and paragraph 1(2)(b) shall include the periods referred to in Article 212(1)(1).

Article 162. 1. The temporary residence permit referred to in Article 159(1) shall be granted to a foreigner for the period:

(1) until the date on which the period of validity of the temporary residence permit granted to the foreigner to whom his/her family member has arrived or with whom he/she resides in the territory of the Republic of Poland;

(2) 3 years – if the foreigner to whom his/her family member has arrived or with whom he/she resides in the territory of the Republic of Poland, has been granted a permanent residence permit, a long-term resident's EU residence permit, subsidiary protection, a residence permit for humanitarian reasons or has been granted refugee status in the Republic of Poland.

2. The temporary residence permit referred to in Article 160(2) shall be granted for a period until the date on which the national visa or temporary residence permit granted to the legal representative of the child expires.

3. In the case referred to in Article 161(2), a temporary residence permit shall be granted once for a period of 3 years.

Article 163. 1. To establishing whether a foreigner applying for a temporary residence permit for a family member of a foreigner has income referred to in Article 159(1)(2)(b) the provision of Article 114(2) shall apply.

2. The requirement to have a source of stable and regular income shall be deemed to be met also when the costs of subsistence for the foreigner will be covered by a family member residing in the territory of the Republic of Poland obliged to provide for the foreigner.

Article 164. A foreigner shall be refused the permit referred to in Article 159(1) in the cases referred to in Article 100(1)(1)-(5), (8) and (9).

Article 165. 1. Apart from the cases referred to in Article 100(1)(1)-(5), a foreigner shall be refused a temporary residence permit:

(1) for a family member – a national of the Republic of Poland – in the case of a foreigner married to a national of the Republic of Poland, or

(2) for the purposes of family reunification – in the case of a foreigner married to a foreigner referred to in Article 159(1)(1)

– if such a marriage has been entered into in order to circumvent the Act.

2. The provision of Article 100(1)(8) shall not apply to the refusal of a temporary residence permit for a family member of a national of the Republic of Poland or a temporary residence permit for the purposes of family reunification if the foreigner is applying for a further permit.

3. A foreigner referred to in paragraph 158(1)(2) or Article 160(2) may not be refused a temporary residence permit if the sole ground for refusal is his/her illegal stay in the territory of the Republic of Poland.

Article 166. In the cases referred to in Article 101(1)(1) or (2), or if at least one of the premises referred to in Article 100(1)(2), (4) or (5) has occurred, the following permits shall be revoked:

(1) a temporary residence permit for a family member of a national of the Republic of Poland granted to a foreigner married to a national of the Republic of Poland, or

(2) a permit for the purposes of family reunification granted to a foreigner married to a foreigner who has been granted a permanent residence permit or a long-term resident's EU residence permit in the territory of the Republic of Poland.

Article 167. In the proceedings on granting or revoking the permit referred to in Article 159(1) the following shall be taken into account:

(1) the interest of a minor child;

(2) the nature and stability of family ties in the territory of the Republic of Poland;

(3) the period of the foreigner's stay in the territory of the Republic of Poland;

(4) the existence of family, cultural and social ties with the country of origin.

Article 168. A foreigner shall be granted a temporary residence permit for the purposes of family reunification at the request of the foreigner residing in the territory of the Republic of Poland to whom a member of his/her family arrives or with whom he/she resides in the territory of the Republic of Poland.

Article 169. 1. In the course of the proceedings on granting a temporary residence permit to a foreigner referred to in Article 158(1)(1) or Article 159(3)(1), the authority conducting the proceedings shall establish whether the marriage has been entered into in order to circumvent the Act.

2. In the proceedings referred to in paragraph 1, it shall be established, in particular, whether the circumstances of the case indicate that:

(1) one of the spouses has accepted a material benefit in return for expressing consent to enter into the marriage unless this is an well-established custom in the state or social group concerned;

(2) the spouses fail to appropriately contribute to the responsibilities arising from the marriage;

(3) the spouses do not reside together or do not run a household together;

(4) the spouses have never met before their marriage;

(5) the spouses do not speak a language understood by both of them;

(6) the spouses are inconsistent about their respective personal data and other important circumstances concerning them;

(7) one of the spouses or both of them have entered in the past into marriages of convenience.

3. In the proceedings on granting a temporary residence permit to a foreigner referred to in Article 160(3), the authority conducting the proceedings shall establish, in particular, whether the family ties of the foreigner with the national of the Republic of Poland or the national of another European Union Member state, a European Free Trade Association (EFTA) member state – a party to the Agreement on the European Economic Area or the Swiss Confederation, are real and permanent.

4. In order to establish the facts referred to in paragraphs 1-3, the authority conducting the proceedings may request the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost competent with respect to the foreigner's place of residence to carry out the procedures referred to in Article 11(1).

5. To establishing the facts referred to in paragraphs 1-3 and carrying out the procedures referred to in Article 11(1) the provision of Article 79 of the Code of Administrative Proceedings shall not apply.

Chapter 9

Stay in the territory of the Republic of Poland of foreigners who are victims of human trafficking

Article 170. A foreigner who is presumed to be a victim of human trafficking within the meaning of Article 115(22) of the Criminal Code, shall be provided with a certificate confirming the existence of such a presumption.

Article 171. 1. A foreigner's stay in the territory of the Republic of Poland shall be considered legal throughout the period of validity of the certificate referred to in Article 170 issued to the foreigner.

2. The stay of a foreigner referred to in Article 170 shall cease to be considered legal upon entering by the minister competent for internal affairs, in the register referred to in Article 428(1)(7), information that the foreigner has actively, voluntarily and on his/her own initiative renewed contacts with those suspected of committing the criminal offence referred to in Article 189a(1) of the Criminal Code.

3. The information referred to in Article 2 shall be provided by the authority which has issued the certificate referred to in Article 170.

Article 172. 1. The certificate referred to in Article 170 shall be issued to the foreigner by the authority competent to conduct proceedings related to the criminal offence referred to in Article 189a(1) of the Criminal Code.

2. The certificate referred to in Article 170 shall be valid for a period of 3 months from the date of its issue, or – in the case of a minor foreigner – for a period of 4 months from the date of its issue.

Article 173. The authority competent for conducting proceedings related to the criminal offence referred to in Article 189a(1) of the Criminal Code shall advise the foreigner in writing in a language which he/she understands about the provisions of Article 171 and Article 172.

Article 174. The authority which has issued to a foreigner the certificate referred to in Article 170 shall notify thereof the minister competent for internal affairs.

Article 175. The minister competent for internal affairs shall specify, by way of ordinance, the template of the certificate referred to in Article 170, having regard to the purpose for which the certificate is issued and the data confirming a foreigner's identity.

Article 176. A temporary residence period for victims of human trafficking shall be granted to a foreigner who meets each of the following conditions:

- (1) resides in the territory of the Republic of Poland;
- (2) has started to cooperate with the authority competent to conduct proceedings related to the criminal offence referred to in Article 189a(1) of the Criminal Code;
- (3) has ended contacts with persons suspected of committing the criminal offence referred to in Article 189a(1) of the Criminal Code.

Article 177. A temporary residence period for victims of human trafficking shall be granted for no less than 6 months.

Article 178. To the proceedings on granting a foreigner a temporary residence period for victims of human trafficking the provisions of Article 99(1)(2) and (4)-(6) and Article 100(1)(2), (3) and (6)-(9) shall not apply.

Article 179. The authority conducting the proceeding on granting a foreigner a temporary residence permit for victims of human trafficking shall provide an opportunity for an interpreter's assistance for a foreigner who does not have adequate knowledge of the Polish language.

Article 180. A temporary residence permit for victims of human trafficking granted to a foreigner shall be revoked:

- (1) in the cases referred to in Article 101(1) or (2), in particular where the foreigner has ceased to cooperate with the authority competent to conduct the proceedings related to the criminal offence referred to in Article 189a(1) of the Criminal Code, or where such proceedings have been closed, or
- (2) at least one of the premises referred to in Article 100(1)(4) or (5) has occurred.

Chapter 10

Temporary residence permit due to circumstances requiring a short-term stay

Article 181. 1. A temporary residence permit due to circumstances requiring a short-term stay of a foreigner in the territory of the Republic of Poland may be granted to a foreigner who stays in this territory if:

- (1) he/she is obliged to appear in person before a Polish public authority, or
- (2) the foreigner's presence in the territory of the Republic of Poland is justified by his/her exceptional personal situation, or
- (3) the foreigner's presence in the territory of the Republic of Poland is justified by the interest of the Republic of Poland.

2. The permit referred to in paragraph 1 may be granted for a period necessary to accomplish the purpose for which the permit has been granted, no longer, however, than 6 months.

3. The permit referred to in paragraph 1 may be granted also where the grounds for applying for this permit do not justify the foreigner's stay in the territory of the Republic of Poland for a period longer than 3 months.

Article 182. To the proceedings on granting a foreigner the permit referred to in Article 181(1) the provisions of Article 99(1)(2), (3) and (6)-(8) shall not apply.

Article 183. 1. The voivode, in considering a foreigner's application for the permit referred to in Article 181(1), shall request to be provided with information whether the foreigner's entry into the territory of the Republic of Poland and his/her stay in this territory may pose a threat to national security or defence or the protection of public safety and order by:

- (1) the commanding officer of a Polish Border Guard unit;
- (2) the voivodeship Police commander;
- (3) the Head of Internal Security Agency.

2. Where necessary, the voivode may request to be provided with the information referred to in paragraph 1 also by the consul competent with respect to the foreigner's last place of residence abroad or by other authorities.

3. The commanding officer referred to in paragraph 1(1), the commander referred to in paragraph 1(2), the Head of the Internal Security Agency or the consul shall provide the voivode with the information referred to in paragraph 1 within 7 working days from the date of receipt of a request for such information.

4. In particularly justified cases, the deadline referred to in paragraph 3 may be extended to 30 working days, of which the voivode shall be notified by the commanding officer referred to in paragraph 1(1), the commander referred to in paragraph 1(2) and the Head of the Internal Security Agency, and – in the case referred to in paragraph 2 – also by the consul.

5. After the expiry of the deadline referred to in paragraphs 3 or 4, the requirement to obtain the information referred to in paragraph 1 shall be deemed to have been met.

6. The provisions of paragraphs 1-5 shall not apply to a foreigner under 13 years of age.

Article 184. The permit referred to in Article 181(1) shall be refused to a foreigner in the cases referred to in Article 100(1)(1) and (3)-(5).

Article 185. The permit referred to in Article 181(1) shall be revoked if the reason for the stay for which the permit has been granted has ceased to exist or if at least one of the premises referred to in Article 100(1)(3)-(5) has occurred.

Temporary residence permit due to other circumstances

Article 186. 1. A temporary residence permit due to other circumstances shall be granted to a foreigner if he/she:

(1) intends to reside in the territory of the Republic of Poland as a family member together with a migrant worker referred to in subparagraph 19 Part I and Article 19 of Part II of the European Social Charter signed in Turin on 18 October 1961 (Dz. U. of 1999 No. 8, item 67, of 2010, No. 76, item 491 and of 2011, No. 168, item 1007), together with such a migrant worker, or with a foreigner self-employed in this territory, referred to in Article 19 (10) of Part II of the European Social Charter signed in Turin on 18 October 1961, or

(2) is a minor child of a foreigner, born in the territory of the Republic of Poland and residing unattended in this territory, or

(3) holds a long-term resident's EU residence permit granted by another European Union Member State, and:

(a) intends to be employed or self-employed in the territory of the Republic of Poland under the laws applicable in this regard in this territory, or

(b) intends to undertake or continue studies or vocational training in the territory of the Republic of Poland, or

(c) proves that there are other grounds for his/her residence in the territory of the Republic of Poland, or

(4) is a family member of a foreigner referred to in subparagraph 3, with whom he/she resided in the territory of another European Union Member State and accompanies him/her or is seeking to reunite with him/her, or

(5) is entitled to work in the territory of the Republic of Poland on the principles laid down in Decision No 1 /80 of the Association Council of 19 September 1980 on the development of the Association between the European Economic Community and Turkey, where the Council was established under the Agreement establishing an Association between the European Economic Community and Turkey, signed in Ankara on 12 September 1963 (OJ L 217 of 29.12.1964, p. 3685; OJ Polish Special Edition, Chapter 11, Volume 11 p. 1).

2. To a family member referred to in paragraph 1(1) the Annex to the European Social Charter signed in Turin on 18 October 1961, to the matters regulated in its Article 19(6), shall apply.

3. To a family member of a foreigner referred to in paragraph 1(3) the provisions of Article 159(3), shall apply.

Article 187. 1. A temporary residence permit due to other circumstances shall be granted to a foreigner if he/she:

(1) intends to undertake or continue in the territory of the Republic of Poland:

(a) education or

(b) vocational training, or

(2) is a graduate of a Polish university and is seeking employment in the territory of the Republic of Poland, or

(3) is a clergyman, a member of a religious order or a person performing a religious function in a church or a religious associations the status of which is regulated by an international agreement or law in force in the Republic of Poland, or who acts under an entry into the register of churches and other religious associations, provided his/her stay in the territory of the Republic of Poland is associated with the function performed by him/her or with preparation for its performance, or

(4) is an aggrieved party referred to in Article 7(2)(2), or

(5) resided, immediately before filing an application for the permit, in the territory of the Republic of Poland on the basis of the permit referred to in subparagraph 4 until the time of receipt of outstanding remuneration from the entity entrusting him/her the performance of work or an entity referred to in Article 6 or Article 7 of the Act of 15 June 2012 on the consequences of entrusting the performance of work to foreigners residing unlawfully in the territory of the Republic of Poland, or

(6) his/her stay in the territory of the Republic of Poland arises from the need to respect the right to family life within the meaning of the Convention on the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950, and the foreigner stays in the territory of the Republic of Poland illegally, or

(7) his/her departure from the territory of the Republic of Poland would violate the rights of the child, as defined in the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989 (Dz. U. of 1991 No. 120, item 526, of 2000 No. 2, item 11 and of 2013, item 677), to the extent that could significantly adversely affect his/her mental and physical development, and the foreigner stays in the territory of the Republic of Poland illegally, or

(8) has proved that there are grounds other than those referred to in subparagraphs 1-7, Chapters 2-10 and Article 186(1), justifying his/her stay in the territory of the Republic of Poland.

Article 188. 1. In the cases referred to in Article 186(1)(1), (3) or (4), a temporary residence permit due to other circumstances shall be granted to a foreigner if he/she has:

(1) health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, or a document certifying that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer;

(2) a source of steady and regular income sufficient to cover the costs of subsistence for the foreigner himself/herself and family members dependent on him/her.

2. In the cases referred to in Article 186(1)(3) or (4), regardless of the requirements specified in paragraph 1, a temporary residence permit due to other circumstances shall be granted to a foreigner who has a guaranteed place of residence in the territory of the Republic of Poland.

3. In the cases referred to in Article 187, a temporary residence permit due to other circumstances may be granted if a foreigner referred to in Article 187:

(1) subparagraphs 1-3, 5 or 8 – has health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, or a document certifying that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer;

(2) subparagraphs 1(b), 2 or 8 – has a source of steady and regular income sufficient to cover the costs of subsistence for himself/herself and family members dependent on him/her;

(3) subparagraph 1(a) – has financial means sufficient to cover the costs of education, subsistence and return;

(4) subparagraphs 1-3, 5 or 8 – has a guaranteed place of residence in the territory of the Republic of Poland;

(5) subparagraph 5 – has guaranteed subsistence in the territory of the Republic of Poland

4. To establishing whether a foreigner applying for the permit referred to in Article 186(1) or Article 187 has income referred to in paragraph 1(2) and paragraph 3(2) the provisions of Article 114 (2) shall apply.

5. The requirement to have a source of stable and regular income shall be considered to be satisfied also where the costs of subsistence for the foreigner are to be covered by his/her family member obliged to provide for his/her subsistence, residing in the territory of the Republic of Poland.

Article 189. 1. To the proceedings on granting a temporary residence permit due to other circumstances to a foreigner referred to in Article 186(1)(5) the provisions of Article 13 of Decision No 1 /80 of the Association Council of 19 September 1980 on the development of the Association between the European Economic Community and Turkey, where the Council was established under the Agreement establishing an Association between the European Economic Community and Turkey, signed in Ankara on 12 September 1963, shall apply.

2. To the proceedings on granting a foreigner a temporary residence permit due to other circumstances referred to in Article 186(1)(4) the provisions of Article 169 shall apply.

Article 190. A temporary residence permit due to other circumstances shall be granted to a foreigner for the period of:

(1) validity of the temporary residence permit granted to a foreigner accompanied by the foreigner applying for a temporary residence permit due to other circumstances or with whom he/she intends to reunite – in the case referred to in Article 186(1)(4);

(2) studying or vocational training, no longer, however, than 1 year – in the case referred to in Article (187)(1);

(3) 1 year – in the case referred to in Article (187)(2).

Article 191. 1. The refusal of a temporary residence permit due to other circumstances shall not be governed by the provisions of:

(1) Article 100(1)(9) – in the case referred to in Article 186(1)(2) or Article 187(4);

(2) Article 100(1)(8) – in the case referred to in Article 186(1)(3) or (4) if the foreigner is applying for a further permit;

(3) Article 100(1)(6) and (7) – in the case referred to in Article 186(1)(3) or (4);

(4) Article 100(1)(2) and (3) and (6)-(9) – in the cases referred to in Article 186(1)(5) or Article 187(6) or (7).

2. A foreigner who has attained the age of majority during his/her stay in the territory of the Republic of Poland and has applied for a temporary residence permit due to other circumstances within 1 year from the date on which he/she attained the age of majority, may not be refused such a permit where it is justified by a particularly vital interest of the foreigner, and the refusal of such a permit is grounded solely on his/her illegal stay in the territory of the Republic of Poland.

Article 192. 1. A permit granted to a foreigner due to the circumstances referred to in Article 186(1)(3) or (4) shall not be revoked if the foreigner, subject to compulsory treatment pursuant to Article 40(1) of the Act of 5 December 2008 on the prevention and control of infections and infectious diseases in humans, does not express consent for such treatment.

2. A permit granted to a foreigner due to the circumstances referred to in Article 186(1)(5) or Article 187(6) or (7) shall be revoked in the cases referred to in Article 100(1)(4) or (5) or Article 101(1).

Article 193. The voivode shall notify the Head of the Office of:

(1) granting a foreigner referred to in Article 186(1)(3) a temporary residence permit due to other circumstance, revoking such a permit or refusal to grant a further permit;

(2) revoking a temporary residence permit due to other circumstance granted to a foreigner referred to in Article 186(1)(4), or refusal to grant such a foreigner a further permit.

Article 194. 1. The Council of Ministers shall specify, by way of ordinance:

(1) the minimum amount of financial means which a foreigner who intends to undertake or continue education in the territory of the Republic of Poland will be required to have to cover the costs of subsistence and the costs of return to the country of origin or residence, or the costs of transit to a third country which will grant him/her a permit for entry;

(2) documents which may certify that he/she is able to lawfully obtain financial means referred to in subparagraph 1.

2. In the ordinance referred to in paragraph 1, the Council of Ministers shall take into account the need to specify the minimum amount of financial means referred to in paragraph 1(1) that is sufficient to cover the costs of subsistence in the territory of the Republic of Poland of the foreigner himself/herself and family members dependent on him/her without recourse to the social assistance system pursuant to the Act of 12 March 2004 on social assistance.

SECTION VI

Permanent residence permit and a long-term resident's EU residence permit

Chapter 1

Permanent residence permit

Article 195. 1. A permanent residence permit shall be granted to a foreigner for an indefinite time, at his/her request, if the foreigner:

(1) is a child of a foreigner who has been granted a permanent residence permit or a long term resident's EU residence permit, of whom such a foreigner has parental custody:

(a) born after this foreigner has been granted a permanent residence permit or a long-term resident's EU residence permit, or

(b) born within the period of validity of the temporary residence permit granted to this foreigner, or

(2) is a child of a national of the Republic of Poland in his/her parental custody, or

(3) is a person of Polish origin and intends to settle in the territory of the Republic of Poland on a permanent basis, or

(4) had been married under Polish law to a national of the Republic of Poland for minimum 3 years prior to the date on which he/she filed an application for a permanent residence permit, and, immediately before filing such a permit, resided uninterruptedly in the territory of the Republic of Poland for a period of no less than 2 years on the basis of a temporary residence permit granted in connection with being married to a national of the Republic of Poland or in connection with being granted refugee status, subsidiary protection or a residence permit for humanitarian reasons, or

(5) is a victim of human trafficking within the meaning of Article 115(22) of Criminal Code, and:

(a) resided in the territory of the Republic of Poland, immediately before filing an application for a permanent residence permit, for a period of no less than 1 year, on the basis of a temporary residence period for victims of human trafficking,

(b) has cooperated with law enforcement authorities in criminal proceedings related to the criminal offence referred to in Article 189a(1) of the Criminal Code,

(c) has a well-founded fear of return to the country of origin, attested to by the prosecutor in charge of the proceedings related to the criminal offence referred to in Article 189a(1) of the Criminal Code, or

(6) resided uninterruptedly in the territory of the Republic of Poland, immediately before filing an application for a permanent residence permit, for a period of no less than 5 years under refugee status, subsidiary protection or on the basis of a residence permit for humanitarian reasons, or

(7) resided uninterruptedly in the territory of the Republic of Poland, immediately before filing an application for a permanent residence permit, for a period of no less than 10 years on the basis of a permit for tolerated stay granted pursuant to Article 351(1) or (3), or

(8) has been granted asylum in the territory of the Republic of Poland, or

(9) has a valid Pole's Card (Karta Polaka) and intends to settle in the territory of the Republic of Poland on a permanent basis.

2. To establishing whether a person referred to in paragraph 1(3) is a person of Polish origin the provisions of Article 5(1)-(3) of the Act of 9 November 2000 on repatriation (Dz. U. of 2004 No. 53, item 532, as amended²²) shall apply.

3. The periods referred to in paragraph 1(6) or (7) with respect to a foreigner residing in the territory of the Republic of Poland under refugee status or subsidiary protection shall include the period of the foreigner's stay in this territory over the course of the proceedings on granting him/her refugee status, even if the foreigner stayed during this period in a guarded centre or a detention centre for foreigners.

4. A foreigner's stay in the territory of the Republic of Poland which is the ground for granting him/her a permanent residence permit shall be considered uninterrupted if none of intervals in such a stay was longer than 6 months and all the intervals did not exceed a total of 10 months in the periods which are the basis for granting him/her a permanent residence permit, unless an interval was due to:

(1) performing by the foreigner professional duties or work outside the territory of the Republic of Poland, under an agreement entered into with an employer established in the territory of the Republic of Poland, or

(2) accompanying a foreigner referred to in subparagraph 1 by his/her spouse or a minor child, or

(3) exceptional personal situation requiring the foreigner's stay outside the territory of the Republic of Poland, and lasted no longer than 6 months, or

(4) departure outside the territory of the Republic of Poland in order to attend internships or participate in classes provided for in the course of studies at a Polish university.

Article 196. 1. Initiation of the proceedings on granting a foreigner a permanent residence permit shall be refused if the foreigner:

(1) resides in the territory of the Republic of Poland:

(a) illegally or

(b) on the basis of a Schengen visa authorising him/her only to enter the territory of the Republic of Poland and stay in this territory, issued for the purpose referred to in Article 60(1)(23), or

(c) on the basis of the permit referred to in Article 181(1), or

(d) on the basis of a long-term resident's EU residence permit, or

(2) has been detained, placed in a guarder centre or in a detention centre for foreigners or a preventive measure in the form of a ban on leaving the country has been applied in relation to him/her, or

(3) is serving a sentence of imprisonment or detention, or

²² Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2005, No. 94, item 788, of 2006, No. 249, item 1828, of 2007, No. 120, item 818 and of 2008, No. 70, item 416 and No. 216, item 1367.

(4) has been obliged to comply with the return obligation and the deadline for voluntary return set out in the decision in this regard has not passed yet, also when this period has been extended, or

(5) is obliged to leave the territory of the Republic of Poland in the cases referred to in Article 299(6), or

(6) resides outside the borders of the Republic of Poland, or

(7) has not have his/her fingerprints taken for the purpose of being granted a residence card, in spite of being obliged to comply with this requirement.

2. The provisions of paragraph 1(1)-(5) shall not apply to a foreigner who has been granted asylum in the Republic of Poland.

3. The provision of paragraph 1(1)(a) shall not apply to a minor child of a foreigner, born in the territory of the Republic of Poland, who has been granted a permanent residence permit or a long-term resident's EU residence permit, and to a child of a national of the Republic of Poland remaining in the parental custody of that person.

4. The provision of paragraph 1(1)(c) shall not apply to foreigners referred to in Article 195(1)(3).

Article 197. 1. A foreigner shall be refused a permanent residence permit if:

(1) he/she does not meet the requirements referred to in Article 195(1), or

(2) his/her data is entered in the register of foreigners whose stay in the territory of the Republic of Poland is undesirable, or

(3) his/her data is entered in the Schengen Information System for the purposes of refusing entry, or

(4) it is justified by national security or defence, or by the protection of public safety and order, or

(5) it is required by the interest of the Republic of Poland, or

(6) the foreigner is applying for the permit on the grounds of getting married to a national of the Republic of Poland where the marriage has been entered into for the purposes of circumventing this Act, or

(7) in the course of the proceedings on granting him/her such a permit, the foreigner:

(a) filed a permit application containing false personal data or false information, or attached to the application documents containing such data or information, or

(b) testified untruthfully or concealed the truth, or forged or modified a document in order to use it as an authentic one, or used such a document as an authentic one, or

(8) is in arrears with the payment of taxes, except in cases where he/she has been legally entitled to exemption, deferment, spread of outstanding payments into instalments, or if the execution of a decision of a competent authority has been withheld in its entirety, or

(9) has not reimbursed the costs related to the issue and enforcement of a decision on imposing the return obligation on him/her, which were covered from the state budget.

2. A permanent residence permit shall be refused to a foreigner referred to in Article 195(1)(3) in the cases referred to in paragraphs 1(1), (4) or (7).

3. A permanent residence permit shall be refused to a foreigner referred to in Article 195(1)(8) if he/she does not meet the requirements referred to in Article 195(1).

4. To establishing the grounds referred to in paragraph (1)(7) the provision of Article 79 of the Code of Administrative Proceedings shall not apply.

Article 198. 1. Where the foreigner's data has been entered in the Schengen Information System for the purposes of refusing entry, a permanent residence permit may be issued only if there are compelling reasons for that, in particular for humanitarian reasons or because of international commitments, taking into account the interest of the state that has made the entry in the Schengen Information System.

2. In the case referred to in paragraph 1, the voivode, in examining the application for a permanent residence permit shall obtain, via the Commander-in-Chief of the Police, the opinion referred to in Article 25 (1) of the Convention implementing the Schengen Agreement.

3. The voivode shall notify the competent authority of another Schengen state, via the Commander-in-Chief of the Police, of granting the foreigner a permanent residence permit in the case referred to in paragraph 1.

Article 199. 1. A permanent residence permit granted to a foreigner shall be revoked if:

- (1) it is justified by national security or defence, the protection of public safety and order, or
- (2) it is required by the interest of the Republic of Poland, or
- (3) in the course of the proceedings on granting him/her such a permit, the foreigner:
 - (a) filed a permit application containing false personal data or false information, or attached to the application documents containing such data or information, or
 - (b) testified untruthfully or concealed the truth, or forged or modified the document in order to use it as an authentic one, or used such a document as an authentic one, or
- (4) was convicted in the Republic of Poland by a final judgment for an intentional offence and sentenced to minimum 3 years of imprisonment, or
- (5) has left the territory of the Republic of Poland for a period longer than 6 years.

2. A foreigner referred to in:

(1) Article 195(1)(3) shall have his/her permanent residence permit revoked in the cases referred to in paragraphs 1(1), (3) or (5);

(2) Article 195(1)(8) shall have his/her permanent residence permit revoked if he/she has been deprived of asylum in the Republic of Poland.

3. Where the decision on granting a foreigner a permanent residence permit was grounded on being married to a national of the Republic of Poland, the permit may be revoked if the foreigner has divorced within 2 years from being granted the permanent residence permit.

4. To establishing the circumstances referred to in paragraph 1(3) the provision of Article 79 of the Code of Administrative Proceedings shall not apply.

Article 200. A permanent residence permit shall expire by operation of law as of the date of:

- (1) granting the foreigner a long term resident's EU residence permit or
- (2) granting the foreigner Polish citizenship.

Article 201. 1. A permanent residence permit shall be granted to a foreigner or refused to be granted by the voivode competent with respect to the place of residence of the foreigner, by way of decision.

2. A permanent residence permit granted to a foreigner shall be revoked by way of decision.

3. A decision on revocation of a permanent residence permit granted to a foreigner shall be issued by the voivode competent with respect to the place of residence of the foreigner, or – if the foreigner has left the territory of the Republic of Poland – the voivode who has granted the permit:

- (1) *ex officio* or
- (2) at the request of the Minister of National Defence, the Head of the Internal Security Agency, the Commander-in-Chief of the Polish Border Guard, the Commander-in-Chief of the Police, the commanding officer of a Polish Border Guard unit or a voivodeship Police commander.

Article 202. 1. A foreigner shall file an application for a permanent residence permit in person, no later than on the last day of his/her lawful stay in the territory of the Republic of Poland.

(2) Where the application for a permanent residence permit has not been filed by the foreigner in person, the voivode shall summon him/her to appear in person within 7 days, under pain of not examining the application.

(3) In the case of a foreigner who is:

(1) a minor – an application for a permanent residence permit shall be filed by the parents or guardians appointed by the court, or one of the parents or one of the guardians appointed by the court;

(2) a totally incapacitated person – an application for a permanent residence permit shall be filed by a guardian appointed by the court;

(3) an unattended minor – an application for a permanent residence permit shall be filed by a guardian.

(4) When filing an application for granting a permanent residence permit to a minor foreigner over 6 years of age, the presence of such a minor is required.

(5) The provision of paragraph 1 shall not apply to a minor child of a foreigner who has been granted a permanent residence permit or a long term resident's EU residence permit, and to a child of a national of the Republic of Poland remaining in the parental custody of that person.

Article 203. 1. A foreigner shall file an application for a permanent residence permit on a form including:

- (1) the foreigner's data or information referred to in Article 13;

- (2) the data or information concerning the foreigner's spouse, referred to in Article 13;
- (3) the following data related to the foreigner's travel document:
 - (a) series and number,
 - (b) date of issue and expiry,
 - (c) the name of the issuing authority,
 - (d) the number of persons entered in the travel document;
- (4) information on:
 - (a) foreign travels made by the foreigner and his/her stays abroad within 5 years prior to filing the application,
 - (b) the foreigner's previous stays and current stay in the territory of the Republic of Poland;
- (5) information whether the foreigner has been detained, placed in a guarded centre or in a detention centre for foreigners, banned to leave the country, sentenced to imprisonment or detention;
- (6) information about the foreigner's tax liabilities towards the State Treasury;
- (7) the specimen signature of the foreigner.

2. When filing the application referred to in paragraph 1, the foreigner shall state the grounds for this application, make – under pain of prosecution for testifying untruthfully – a written representation that the data included in the application is true, and he/she shall submit a valid travel document to which he/she shall attach:

- (1) a recent photograph;
 - (2) documents necessary to verify the details included in the application and the grounds for applying for a permanent residence permit.
3. In particularly justified cases, if the foreigner is not in possession of a valid travel document and is unable to obtain it, he/she can produce another proof of identification.
4. A foreigner applying for a permanent residence permit shall have his/her fingerprints taken.

Article 204. 1. The minister competent for internal affairs shall specify, by way of ordinance:

- (1) the template of the application form for a permanent residence permit;
- (2) the number of photographs attached to an application for a permanent residence permit and detailed technical requirements for photographs attached to the application;
- (3) the specimen of the stamp certifying that an application for a permanent residence permit has been filed;
- (4) the method of taking fingerprints for the purposes of issuing a residence permit;

(5) the method of capturing the data included in the residence permit and transferring it for the purposes of personalisation of the residence permit.

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account the need to ensure the smooth conduct of the proceedings on granting a foreigner a permanent residence permit and the ability to effectively verify the premises for granting such a permit.

Article 205. 1. In the course of the proceedings on granting a permanent residence permit to a foreigner who is a spouse of a national of the Republic of Poland, the authority conducting the proceedings shall establish whether the marriage has been entered into in order to circumvent the Act.

2. To establishing whether the marriage has been entered into in order to circumvent the Act, the provisions of Article 169(2), (4) and (5) shall apply.

Article 206. 1. Where an application for granting a foreigner a permanent residence permit has been filed during his/her legal stay in the territory of the Republic of Poland and is free from formal defects, or formal defects have been remedied in due time:

(1) the voivode shall put in the foreigner's travel document a stamp certifying that an application for a permanent residence permit has been filed;

(2) the foreigner's stay in the territory of the Republic of Poland shall be considered legal from the date of filing the application to the date on which the decision on granting a permanent residence permit becomes final.

2. The provision of paragraph 1(2) shall not apply in the event of suspending the proceedings on granting a foreigner a permanent residence permit at the request of the applicant.

Article 207. 1. Prior to issuing a decision on granting a foreigner a permanent residence permit, the voivode shall obtain information whether the foreigner's entry into in the territory of the Republic of Poland and his/her stay in this territory pose a threat to national security or defence or the protection of public safety and order.

2. A request for information referred to in Article 1 shall be made to:

(1) the commanding officer of a Polish Border Guard unit;

(2) the voivodeship Police commander;

(3) the Head of Internal Security Agency.

3. In particularly justified cases, the request referred to in paragraph 2 may be made also to authorities other than those referred to in paragraph 2.

4. The commanding officer referred to in paragraph 2(1), the commander referred to in paragraph 2(2), the Head of the Internal Security Agency or the authorities referred to in paragraph 3, shall provide the information referred to in paragraph 1 within 30 days from receipt of the request.

5. In particularly justified cases, the 30-day deadline may be extended to 60 days.

6. The authority obliged to provide the information shall notify the voivode of the extension of the deadline referred to in paragraph 5.

7. If the authorities referred to in paragraphs 2 and 3 fail to provide the information by the deadlines referred to in paragraphs 4 or 5, the information requirement shall be considered to have been met.

8. The provision of paragraph 1 shall not apply to a foreigner under 13 years of age.

Article 208. Where another Schengen state obtains the opinion referred to in Article 25(2) of the Convention implementing the Schengen Agreement, the voivode shall establish whether there are premises for revoking the permanent residence permit granted to the foreigner and notifies thereof, via the Commander-in-Chief of the Police, the competent authority of that state.

Article 209. 1. The voivode shall notify the Polish Border Guard authority competent with respect to the place of residence of the foreigner of revocation of his/her permanent residence permit, once the decision in this regard becomes final.

2. In the case referred to in paragraph 1, the competent authority of the Polish Border Guard shall establish whether there are premises for issuing a decision on imposing the return obligation on the foreigner.

Article 210. The proceedings on granting a foreigner a permanent residence permit shall be concluded within maximum 3 months from their institution, while appeal proceedings shall be concluded within 2 months from the date of receipt of the appeal.

Chapter 2

Long-term resident's EU residence permit

Article 211. 1. A long term resident's EU residence permit shall be granted to a foreigner for an indefinite time, at his/her request, if he/she has been staying in the territory of the Republic of Poland legally and uninterruptedly for minimum 5 years immediately before filing the application and meets each of the following conditions:

(1) has a source of steady and regular income sufficient to cover the costs of subsistence for the foreigner himself/herself and family members dependent on him/her;

(2) has health insurance within the meaning of the Act of 27 August 2004 on health care services financed from public funds, or a document certifying that the costs of treatment in the territory of the Republic of Poland will be covered by the insurer.

2. A foreigner applying for a long term resident's EU residence permit shall have income referred to in paragraph 1(1) if he/she met the requirements referred to in Article 114(2):

(1) for 2 years of stay in the territory of the Republic of Poland, immediately before filing the application – in the case referred to in Article 212(1)(1);

(2) for 3 years of stay in the territory of the Republic of Poland, immediately before filing the application – in other cases.

Article 212. 1. The 5-year period of stay in the territory of the Republic of Poland, referred to in Article 211(1), shall include:

(1) the total period of legal stay in the territory of the European Union, if the foreigner has resided in this territory legally and uninterruptedly for minimum 5 years on the basis of the residence permit issued by a European Union Member State, referred to in Article 1(2)(a) of Regulation No 1030/2002, with an annotation “Niebieska Karta EU” (“EU Blue Card”), also in the territory of the Republic of Poland – for minimum 2 years immediately before filing an application for a long term resident’s EU residence permit on the basis of a temporary residence permit for the purposes of highly qualified employment;

(2) the entire period of stay in the territory of the Republic of Poland during the proceedings on granting refugee status, if this period has exceeded 18 months;

(3) half of the period of stay in the territory of the Republic of Poland – in the case of a foreigner residing in the territory of the Republic of Poland:

(a) on the basis of a visa issued for the purpose referred to in Article 60(1)(9) or (10), or

(b) on the basis of the permit referred to in Article 144 or Article 187(1)(b), or

(c) during the proceedings on granting him/her refugee status.

2. The 5-year period of stay in the territory of the Republic of Poland, referred to in Article 211(1), shall not include the period of stay of a foreigner:

(1) who is an employee seconded by a service provider for the purpose of cross-border service provision or who is a service provider rendering cross-border services;

(2) who resides in the territory of the Republic of Poland on the basis of a Schengen visa authorising him/her only to enter this territory and stay in this territory, issued for the purpose referred to in Article 60(1)(23);

(3) who resides in the territory of the Republic of Poland for the purpose of studying;

(4) who has been obliged to comply with the return obligation and the deadline for voluntary return set out in a decision in this regard has not passed yet, also when this period has been extended;

(5) who is obliged to leave the territory of the Republic of Poland in the cases referred to in Article 299(6);

(6) who is a member of the staff of a diplomatic mission or a consular post of a foreign state or another person treated equally under applicable laws, international treaties or generally recognised international customs;

(7) referred to in Article 181(1);

(8) during the proceedings on granting him/her refugee status, where the proceedings were concluded with a refusal to grant him/her refugee status or subsidiary protection;

(9) on the basis of a local border traffic permit.

3. The foreigner's stay which is the ground for granting him/her a long-term resident's EU residence permit shall be deemed uninterrupted if none of intervals in it:

(1) was longer than 6 months and all the intervals were not longer in total than 10 months within the 5-year period referred to in Article 211(1) – in the case of the foreigner's stay in the territory of the Republic of Poland;

(2) was longer than 12 months and all the intervals were not longer in total than 18 months within the period referred to in Article 1(1) – in the case of a foreigner holding a temporary residence permit for the purposes of highly qualified employment residing in the territory of another European Union Member State.

4. The provision of paragraph 3 shall not apply if the interval was due to:

(1) performance by the foreigner of professional duties or work outside the territory of the Republic of Poland under an agreement entered into with an employer established in the territory of the Republic of Poland, or

(2) accompanying a foreigner referred to in subparagraph 1 by his/her spouse or a minor child, or

(3) an exceptional personal situation requiring the foreigner's presence outside the territory of the Republic of Poland, and lasted no longer than 6 months, or

(4) departure outside the territory of the Republic of Poland in order to attend internships or participate in classes provided for in the course of studies at a Polish university.

Article 213. Initiation of the proceedings on granting a foreigner a long-term resident's EU residence permit shall be refused if the foreigner:

(1) resides in the territory of the Republic of Poland:

(a) illegally or

(b) on the basis of a Schengen visa authorising him/her only to enter the territory of the Republic of Poland and stay in this territory, issued for the purpose referred to in Article 60(1)(23), or

(c) in order to pursue studies or vocational training, or

(d) in connection with the intention to undertake or continue education in the territory of the Republic of Poland, or

(e) in connection with having been granted a residence permit for humanitarian reasons, a permit for tolerated stay, asylum or temporary protection, or

(f) in connection with applying for refugee status or asylum, or

(g) on the basis of the permit referred to in Article 181(1), or

(h) on the basis of a local border traffic permit, or

(2) is an employee seconded by a service provider for the purpose of cross-border service provision or who is a service provider rendering cross-border services, or

(3) has been detained, placed in a guarder centre or in a detention centre for foreigners, or a preventive measure in the form of a ban on leaving the country has been applied in relation to him/her, or

(4) is serving a sentence of imprisonment or detention, or

(5) has been obliged to comply with the return obligation and the deadline for voluntary return set out in a decision on imposing the return obligation on the foreigner has not passed yet, also when this period has been extended, or

(6) is obliged to leave the territory of the Republic of Poland in the cases referred to in Article 299(6), or

(7) resides outside the borders of the Republic of Poland, or

(8) has not have his/her fingerprints taken for the purpose of being granted a residence card, in spite of being obliged to comply with this requirement.

Article 214. 1. A foreigner shall be refused a long-term resident's EU residence permit if:

(1) he/she does not meet the requirements referred to in the Article 211(1), or

(2) it is justified by national security or defence or the protection of public safety and order.

2. The grounds referred to in paragraph 1(2) may not be relied on for economic purposes.

Article 215. 1. A foreigner shall have a long-term resident's EU residence permit revoked where:

(1) the long-term resident's EU residence permit has been granted in breach of law or

(2) he/she poses a real and serious threat to national security or defence or the protection of public security and order, or

(3) he/she has left the territory of the Republic of Poland for a period longer than 6 years, or

(4) he/she has left the territory of the European Union for a period of consecutive:

(a) 12 months or

(b) 24 months if he/she held a temporary residence permit for the purposes of highly qualified employment or is a member of the family of a foreigner who held such a permit, or

(5) he/she has obtained a long-term resident's EU residence permit in the territory of another European Union Member State, or

(6) has been deprived of refugee status or subsidiary protection under the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland if the long-term resident's EU residence permit has been granted in connection with his/her stay in this territory under refugee status or subsidiary protection.

2. The threats referred to in paragraph 1(2) may not be relied on for economic purposes.

3. In the proceedings on revocation of a long-term resident's EU residence permit on the grounds referred to in paragraph 1(2), the following shall be taken into account:

- (1) the duration of the foreigner's stay in the territory of the Republic of Poland;
- (2) the foreigner's age;
- (3) the foreigner's ties with the Republic of Poland or absence of ties with the country of origin;
- (4) the consequences of the revocation for the foreigner and members of his/her family.

Article 216. To the granting of a further long-term resident's EU residence permit to a foreigner who has had such a permit revoked on the grounds referred to in Article 215(1)(3)-(5), Article 219(1)(4) and (9) shall not apply.

Article 217. A long-term resident's EU residence permit shall expire by operation of law as of the date of acquisition of Polish citizenship.

Article 218. 1. A long-term resident's EU residence permit shall be granted or refused to be granted to a foreigner, by way of decision, by the voivode competent with respect to the place of residence of the foreigner.

2. A long-term resident's EU residence permit shall be revoked, by way of decision, *ex officio* or at the request of the Minister of National Defence, the Head of the Internal Security Agency, the Commander-in-Chief of the Polish Border Guard, the Commander-in-Chief of the Police, the commanding officer of a Polish Border Guard unit or a voivodeship Police commander, by the voivode:

- (1) competent with respect to the place of residence of the foreigner or
- (2) who has granted the permit – where the foreigner has left the territory of the Republic of Poland.

Article 219. 1. A foreigner shall file an application for a long-term resident's EU residence permit on a form including:

- (1) the foreigner's data or information referred to in Article 13;
- (2) the first name, surname, date of birth, sex, citizenship and place of residence of family members of the foreigner dependent on him/her and residing in the territory of the Republic of Poland, specifying the degree of kinship;
- (3) the following data related to the foreigner's travel document:
 - (a) series and number,
 - (b) date of issue and expiry,
 - (c) the name of the issuing authority,
 - (d) the number of persons entered in the travel document;
- (4) information on:
 - (a) foreign travels made by the foreigner and his/her stays abroad within 5 years prior to the date of filing the application,
 - (b) the foreigner's previous stays and current stay in the territory of the Republic of Poland;

(5) information on:

- (a) a source of steady and regular income sufficient to cover the costs of subsistence for the foreigner himself/herself and family members dependent on him/her,
- (b) the number of persons dependent on the foreigner,
- (c) the amount of the foreigner's income within the last 3 years, or – in the case referred to in Article 212(1)(1) – within the last 2 years;

(6) information about health insurance held by the foreigner;

(7) information about a long-term resident's EU residence permit granted to the foreigner in another European Union Member State;

(8) information about stays in the territories of other European Union Member States on the basis of a residence permit with an annotation "Niebieska Karta UE" ("EU Blue Card") issued by a European Union Member State other than the Republic of Poland, and intervals in such a stay;

(9) information whether the foreigner has been detained, placed in a guarded centre or in a detention centre for foreigners, banned to leave the country, sentenced to imprisonment or detention;

(10) the specimen signature of the foreigner.

2. When applying for the permit referred to in paragraph 1, the foreigner shall state the grounds for this application, make – under pain of prosecution for testifying untruthfully – a written representation that the data included in the application is true, and he/she shall produce a valid travel document and a document certifying the legal title to the habitable premises in which he/she will reside, to which he/she shall attach:

(1) a recent photograph;

(2) the documents necessary to verify the data included in the application and the grounds for the application for a long-term resident's EU residence permit.

3. A contract of lending for use shall not be considered the legal title referred to in paragraph 2, unless the lender is a descendant, ascendant, spouse, spouse's parents or siblings of the foreigner.

4. In a particularly justified case, if the foreigner is not in possession of a valid travel document and is unable to obtain it, he/she can produce another proof of identification.

5. A foreigner applying for a long-term resident's EU residence permit shall have his/her fingerprints taken.

Article 220. In the case referred to in Article 25(1) of the Convention implementing the Schengen Agreement, the voivode shall notify the competent authority of another Schengen state, via the Commander-in-Chief of the Police, of granting the foreigner a long-term resident's EU residence permit.

Article 221. Where a foreigner holds a long-term resident's EU residence permit granted by another European Union Member State, the voivode shall provide the Head of the Office with a copy of the

decision on granting the foreigner a long-term resident's EU residence permit in the territory of the Republic of Poland.

Article 222. 1. The minister competent for internal affairs shall specify, by way of ordinance:

- (1) the template of the application form for a long-term resident's EU residence permit;
- (2) the number of photographs attached to an application for a long-term resident's EU residence permit and detailed technical requirements for such photographs;
- (3) the specimen of the stamp certifying that an application for a long-term resident's EU residence permit has been filed;
- (4) the method of taking fingerprints for the purposes of issuing a residence permit;
- (5) the method of capturing the data included in the residence permit and transferring it for the purposes of personalisation of the residence permit.

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account the need to ensure the smooth conduct of the proceedings on granting a foreigner a long-term resident's EU residence permit and the ability to effectively verify the premises for granting such a permit.

Article 223. To the granting or revocation of a long-term resident's EU residence permit the provisions of Article 202 and Articles 206-210 shall apply.

Article 224. Within 1 month from receipt of a request from another European Union Member State, the Head of the Office shall provide that state with information whether the foreigner is still covered by international protection in the Republic of Poland.

Article 225. In the event of assuming by the Republic of Poland the responsibility for international protection the Head of the Office shall request the competent authority of another European Union Member State which has issued the long-term resident's EU residence permit with an endorsement of granting international protection for the endorsement to be changed.

SECTION VII

Documents issued to foreigners

Article 226. A foreigner may be issued the following documents:

- (a) a residence card;
- (b) a Polish travel document for a foreigner;
- (c) a Polish identity document of a foreigner;
- (d) a provisional Polish travel document for a foreigner;
- (e) a document certifying that the foreigner holds a permit for tolerated stay entitled "permit for tolerated stay".

Article 227. Where any of the documents referred to in Article 226 has been issued to an unauthorised person, the authority which has issued such a document shall cancel it by way of decision.

Article 228. No signature of the holder shall be provided in the documents referred to in Article 226, where they are issued to:

- (1) a minor under 13 years of age, or
- (2) a minor over 13 years of age who is unable to place a signature by himself/herself due to his/her disability.

Article 229. 1. The documents referred to in Article 226 shall be issued and replaced at the request of the foreigner.

2. The first residence card shall be issued *ex officio*.

3. A Polish identity document of a foreigner, in the case of a minor foreigner born in the territory of the Republic of Poland and residing in this territory unattended by his/her parents, may also be issued *ex officio*.

4. The first residence card in the case of a foreigner who:

- (1) arrives in the territory of the Republic of Poland or resides in that territory for the purpose of family reunification or
- (2) is a member of the immediate family of a repatriate, or
- (3) has been granted a residence permit for humanitarian reasons

– shall be issued at the foreigner's request.

5. A provisional Polish travel document for a foreigner in the case of a foreigner:

- (1) subject to relocation or resettlement – shall be issued at the request of the Head of the Office;
- (2) referred to in Article 268(2) – may also be issued *ex officio*.

6. Before issuing the first residence card to a foreigner who has been granted a long term resident's EU residence permit and who previously held a long-term resident's EU residence permit granted by another European Union Member State in connection with a stay under international protection, the voivode shall request that Member State, via the Head of the Office, to establish whether the foreigner has not been deprived of international protection.

Article 230. 1. A request for replacement of the documents referred to in Article 226(1)-(3) and (5) shall be made within 14 days from the occurrence of the grounds for their replacement referred to in the provisions of this Section.

2. An application for a further residence card shall be filed at least 30 days before the expiry of the period of validity of the residence card.

Article 231. 1. A foreigner shall apply for the issue or replacement of the documents referred to in Article 226 on a form which shall include:

- (1) the foreigner's data or the information referred to in Article 13;
- (2) the foreigner's data or the information referred to in Article 13, concerning the children covered by the application and other persons entered in the travel document – in the case of an application for the issue or replacement of a Polish travel document for a foreigner or for the issue of a provisional Polish travel document for a foreigner;
- (3) address of permanent residence or temporary residence lasting more than 2 months.

2. A foreigner filing the application referred to in paragraph 1 shall produce a valid travel document and shall attach to it:

- (1) a recent photograph of the foreigner and photographs of the persons covered by the application;
- (2) documents necessary to verify the data and circumstances specified in the application.

3. In a particularly justified case, if the foreigner is not in possession of a valid travel document and is unable to obtain it, he/she can produce another proof of identification.

4. A foreigner who resides in the territory of the Republic of Poland on the basis of the certificate referred to in Article 170 shall be exempt from the obligation to produce a valid travel document or another document confirming his/her identity when filing an application for a Polish identity document of a foreigner if due to exceptional circumstances he/she does not hold such documents and is unable to obtain them.

Article 232. 1. In the event of the loss or destruction of a document referred to in Article 226(1)-(3) and (5), the foreigner shall notify thereof the authority which has issued the document within 3 days from its loss or destruction.

2. A foreigner who has notified the loss or destruction of a document referred to in Article 226(1)-(3) and (5) shall be issued, free of charge, a relevant certificate.

3. The certificate referred to in paragraph 2 shall be valid until another document is issued to the foreigner, no longer, however, than for 2 months.

4. The notification referred to in paragraph 1 shall be made on a form containing the data referred to in Article 244(1) and the signature of the notifier.

Article 233. 1. A foreigner who has regained a lost document referred to in Article 226(1)-(3) and (5) shall notify thereof, within 3 days from the date of regaining the document, the authority which has issued it.

2. A foreigner who has been granted another document issued in lieu of the lost one shall immediately return the regained document to the authority which has issued it.

Article 234. 1. A person who has found a document referred to in Article 226(1)-(3) and (5) belonging to another person shall immediately forward it to the competent voivode, the voivodeship (Warsaw) Police commander, the poviast (municipal) Police commander, the commanding officer of a Police station, another public administration authority or a consul of the Republic of Poland.

2. The entities referred to in paragraph 1 shall immediately forward such a document to the authority which has issued it, for the purposes of its cancellation.

Article 235. 1. The documents referred to in Article 226 shall be issued or replaced upon the payment of a relevant fee.

2. The income from fees for the issue and replacement of the documents referred to in Article 226 shall constitute revenue of the state budget.

Article 236. The fee referred to in Article 235(1) shall not be charged in the case of:

- (1) issuing the first residence card to a foreigner who has been granted, in the Republic of Poland:
 - (a) refugee status,
 - (b) subsidiary protection,
 - (c) a residence permit for humanitarian reasons;
- (2) issuing the first residence card to a foreigner who has been granted a permanent residence permit in the Republic of Poland as a member of the immediate family of a repatriate;
- (3) technical defects in an issued or replaced document;
- (4) issuing *ex officio* a Polish identity document of a foreigner to a minor foreigner;
- (5) issuing a provisional Polish travel document to a relocated or resettled foreigner or in the event of the enforcement of a decision on imposing on the foreigner the return obligation;
- (6) replacing a residence card due to the circumstances referred to in Article (241)(5) or (6).

Article 237. 1. The right to pay a reduced fee for the issue or replacement of the documents referred to in Article 226 shall be held by foreigners:

- (1) who are in a difficult financial situation;
- (2) whose purpose of stay is education in a secondary school or a higher education facility in the territory of the Republic of Poland;
- (3) who are minors who, as of the date of filing an application for the issue or replacement of a residence card or a document, are under 16 years of age.

2. The reduction in the fee referred to in paragraph 1 shall be 50% of the amount specified in the regulations issued pursuant to Article 239(1).

Article 238. In the event of a wrongful loss or wrongful destruction of a documents referred to in Article 226(1)-(3) and (5), the fee for the replacement of the documents concerned shall be increased to 300% of the fees specified in the regulations issued pursuant to Article 239(1).

Article 239. 1. The minister competent for internal affairs, in consultation with the minister competent for public finance, shall specify, by way of ordinance:

- (1) the amount of the fees charged in the Republic of Poland for the issue and replacement of a residence card, a Polish travel document for a foreigner, a Polish identity document of a foreigner and a "permit for tolerated stay", as well as for the issue of a provisional Polish identity document of a foreigner;

- (2) the mode of payment of the fees referred to in subparagraph 1;
- (3) the documents required to obtain the entitlement to the reductions referred to in Article 237(1);
- (4) the amount of the fees charged in the Republic of Poland for the replacement of a residence card, a Polish travel document for a foreigner, a Polish identity document of a foreigner and a "permit for tolerated stay" in the event of their wrongful loss or destruction.

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account:

- (1) the unit costs of the production and issue or replacement of a residence card, a Polish travel document for a foreigner, a Polish identity document of a foreigner and a "permit for tolerated stay", as well as for the issue of a provisional Polish identity document of a foreigner;
- (2) differentiation of the amounts of the fees for the replacement of documents in the event of their wrongful loss or destruction, depending on the number of events rendering the issue of new documents necessary.

Article 240. A residence card shall be issued to a foreigner who has been granted:

- (1) a temporary residence permit;
- (2) a permanent residence permit;
- (3) a long-term resident's EU residence permit;
- (4) a residence permit for humanitarian reasons.

Article 241. A residence card shall be replaced in the event of:

- (1) change of the data included in the existing residence card;
- (2) change in the image of the face of the holder of the residence permit in relation to the image of the face provided in the card, to an extent obstructing identification of the cardholder or rendering it impossible;
- (3) its loss;
- (4) its destruction;
- (5) assuming by the Republic of Poland responsibility for international protection of the holder of a residence card issued in relation with granting him/her a long-term resident's EU residence permit with the annotation referred to in Article 244(1)(18);
- (6) assuming by another European Union Member State responsibility for international protection of the holder of a residence card issued in relation with granting him/her a long-term resident's EU residence permit.

Article 242. Within the period of its validity, a residence card confirms the foreigner's identity during his/her stay in the territory of the Republic of Poland and entitles him/her, together with a travel document, to multiple border crossing without having to obtain a visa.

Article 243. 1. A residence card issued to a foreigner in the event of granting him/her:

- (1) a temporary residence permit – shall be valid throughout the period for which the permit has been granted;
- (2) a permanent residence permit – shall be valid for 10 years from the date of its issue;
- (3) a long-term resident's EU residence permit – shall be valid for 5 years from the date of its issue;
- (4) a residence permit for humanitarian reasons – shall be valid for 2 years from its issue.

2. A further residence card issued to a foreigner after the expiry of a residence card issued to him/her in connection with granting him/her:

- (1) a permanent residence permit – shall be valid for 10 years from the date of its issue;
- (2) a long-term resident's EU residence permit – shall be valid for 5 years from the date of its issue;
- (3) a residence permit for humanitarian reasons – shall be valid for 2 years from the date of its issue.

Article 244. 1. A residence card shall include:

- (1) the first name(s) and surname of the foreigner and the first names of his/her parents;
- (2) date, place and country of birth;
- (3) address of permanent or temporary residence;
- (4) information about citizenship;
- (5) information about the sex of the foreigner;
- (6) information about the height (in centimetres) and the colour of the eyes of the foreigner;
- (7) identification number in the Universal Electronic System for Registration of the Population (PESEL) – if assigned;
- (8) information about the type of the granted permit;
- (9) annotation “naukowiec” (“researcher”) – in the case of the permit referred to in Article 151;
- (10) annotation “Niebieska Karta UE” (“EU Blue Card”) – in the case of the permit referred to in Article 127;
- (11) annotation “dostęp do rynku pracy” (“access to the labour market”) – in the case of a permit granted to a foreigner who is entitled to work in the territory of the Republic of Poland or exempt from the obligation to obtain a work permit;
- (12) annotation “Poprzednio posiadacz Niebieskiej Karty UE” (“Previously EU Blue Card holder”) – in the case of a long-term resident's EU residence permit granted to a foreigner who has been granted a temporary residence permit for the purposes of highly qualified employment;
- (13) fingerprint image;
- (14) the name of the issuing authority;

(15) date of issue;

(16) expiry date;

(17) a photograph of the foreigner;

(18) annotation "ochrona międzynarodowa przyznana przez (international protection granted by) ...[name of the European Union Member State which has granted international protection] w dniu (on) ... [date when international protection was granted]" – in the case of a long-term resident's EU residence permit granted to a foreigner who has been granted international protection.

2. Irrespective of the data referred to in paragraph 1, a residence card may contain the signature of the foreigner and the encoded data referred to in paragraph 1(1), (2), (4), (5) or (16).

3. No fingerprint image shall be provided in a residence card issued to a person who is physically unable to have his/her fingerprints taken.

4. The data referred to in paragraph 1(3) shall not be provided where the foreigner has not registered his/her residence in the place of temporary residence lasting longer than 2 months.

Article 245. 1. A residence card shall be issued or refused to be issued by the voivode who has granted the foreigner a temporary residence permit, a permanent residence permit or a long-term resident's EU residence permit.

2. In the case of a foreigner who has been granted a residence permit for humanitarian reasons, a residence card shall be issued or refused to be issued by the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost who has granted such a permit.

3. A residence card shall be replaced or refused to be replaced by the voivode competent with respect to the place of residence of the foreigner.

4. In the case of a foreigner who has been granted a residence permit for humanitarian reasons, the residence card shall be replaced or refused to be replaced by the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost competent with respect to the place of residence of the foreigner.

5. The provisions of paragraphs 3 and 4 shall apply to the granting or refusal to grant a further residence card.

6. A foreigner shall be refused to be granted a residence card or to have a residence card replaced by way of decision.

7. The Head of the Office shall be a higher-level authority, within the meaning of the Code of Administrative Proceedings, in relation to the commanding officer of a Border Guard unit or the commanding officer of a Border Guard outpost in matters related to the issue or replacement of a residence card in the case of a foreigner who has been granted a residence permit for humanitarian reasons.

8. Where a temporary residence permit, a permanent residence permit, a long-term resident's EU residence permit or a residence permit for humanitarian reasons has been granted by the Head of the Office or where the Head of the Office has issued a decision on the granting or replacement of a

residence card, a residence card shall be issued or replaced by the authority referred to in paragraph 1 or 2 which ruled on these matters in the first instance.

Article 246. The authority competent to issue a residence card shall take the fingerprints of a foreigner who is applying for:

- (1) issuing the first residence card in the case referred to in Article 229(4);
- (2) issuing a further residence card;
- (3) replacement of his/her residence card.

Article 247. Initiation of the proceedings on granting or replacement of a residence card shall be refused where the foreigner has failed to have his/her fingerprints taken for the purposes of being granted a residence card or its replacement.

Article 248. 1. A foreigner shall collect his/her residence card in person.

- (1) Where a residence card has been issued to a foreigner under 13 years of age, the card shall be collected by his/her legal representative or a guardian.
- (2) A foreigner collecting a residence card shall be provided with an electronic reader for the purposes of verifying whether his/her personal data included in the card is true, accurate and complete.

Article 249. 1. A foreigner shall return his/her residence card to the issuing authority where:

- (1) he/she has acquired Polish citizenship;
- (2) a decision on cancellation of the document has been issued;
- (3) a decision on revocation of his/her permanent residence permit or long term resident's EU residence permit has been issued;
- (4) a decision on revocation of his/her temporary residence permit has been issued;
- (5) a decision on revocation of his/her residence permit for humanitarian reasons has been issued;
- (6) the decision on granting him/her a temporary residence permit has expired by operation of law pursuant to Article 102 or pursuant to Article 307(1);
- (7) the decision on granting him/her a permanent residence permit has expired by operation of law pursuant to Article 200(1);
- (8) the decision on granting him/her a residence permit for humanitarian reasons has expired by operation of law pursuant to Article 354(1)(1), (3) or (4).

2. A foreigner shall return his/her residence card immediately, no later, however, than within 14 days from the date on which:

- (1) he/she has been served a document certifying the acquisition of Polish citizenship or
- (2) the decision referred to in paragraph 1(2)-(8) became final or expired.

3. A person obliged to report the death of a foreigner pursuant to Article 65 of the Act of 29 September 1986 –Law on registry office records (Dz. U. of 2011 No. 212, item 1264 and of 2012 item 1529) shall immediately return the residence card of a deceased foreigner to the authority that has issued the card.

4. The authority to which a residence card has been returned shall issue, at the foreigner's request and free of charge, a certificate of return of the residence permit, valid for 30 days.

Article 250. A residence card shall be cancelled in the event of:

(1) its loss or destruction – as of the date of notification of its loss or destruction to the competent authority;

(2) its replacement due to change in:

(1) the image of the face of the holder of the card in relation to the image of the face provided in this card, to an extent obstructing identification of the cardholder or rendering it impossible;

(2) the data contained therein – as of the date of collecting a new card;

(3) acquisition by the foreigner of Polish citizenship – as of the date of expiry of the deadline for the return of the card;

(4) the death of the residence card holder – as of the date of notifying the competent authority of the death of the foreigner;

(5) the foreigner's failure to return the card where he/she has been issued the decision referred to in Article 249(1)(2)-(8) – as of the date on which the decision became final or expired.

Article 251. A residence card shall be cancelled by:

(1) the authority which has issued it, where:

(a) the residence card holder has acquired Polish citizenship or has died,

(b) the decision on revocation of a temporary residence permit, a permanent residence permit, a long-term resident's EU residence permit or a residence permit for humanitarian reasons, or the decision on imposing the return obligation on the foreigner or the decision on cancellation of the residence card has become final,

(c) another person's residence card has been returned by a person who has found it, unless the card has already been cancelled,

(d) another person's residence card has been returned by a person who has found it, unless the card has already been cancelled,

(e) the foreigner has returned a regained residence card in the case referred to in Article 233(2), unless the card has already been cancelled,

(f) the decision on granting a temporary residence permit in connection with obtaining by the foreigner a permanent residence permit or a long-term resident's EU residence permit has expired,

- (g) the decision on granting a permanent residence permit in connection with obtaining by the foreigner a long-term resident's EU residence permit has expired,
 - (h) the decision on granting a residence permit for humanitarian reasons in connection with granting refugee status or subsidiary protection to the foreigner, or the decision on granting him/her a permanent residence permit has expired,
 - (i) the decision on granting a residence permit for humanitarian reasons in connection with notification of the waiver of the right to use this permit or returning to the country of origin has expired;
- (2) the authority that replaces the residence card, in the event of:
- (a) notifying the competent authority of the loss or destruction of the residence card,
 - (b) collecting a new residence card in the cases referred to in Article (241)(1) or (2).

Article 252. A Polish travel document for a foreigner shall be issued to a foreigner who has lost his/her travel document or whose travel document has been destroyed or has expired, where it is not possible for the foreigner to obtain a new travel document, and the foreigner has been granted:

- (1) a permanent residence permit;
- (2) a long-term resident's EU residence permit;
- (3) subsidiary protection;
- (4) a residence permit for humanitarian reasons.

Article 253. 1. Within the period of its validity, a Polish travel document for a foreigner shall entitle its holder to multiple border crossing.

2. A Polish travel document for a foreigner shall be valid for 1 year from the date of its issue.

Article 254. Being granted a Polish travel document for a foreigner shall not exempt him/her from the obligation to take action to obtain a travel document.

Article 255. 1. A Polish travel document for a foreigner shall contain:

- (a) the first name(s) and surname of the foreigner;
- (b) date, place and country of birth;
- (c) information about the foreigner's citizenship;
- (d) information about the foreigner's sex;
- (e) the name of the issuing authority;
- (f) date of its issue;
- (g) date of its expiry;
- (h) a photograph of the foreigner;

2. A Polish travel document for a foreigner shall contain the signature of its holder and may contain encoded date referred to in paragraph 1(1)-(4) or (7).

Article 256. A Polish travel document for a foreigner shall be replaced in the case of:

- (1) change of the data contained in the existing document;
- (2) change in the image of the face of the holder of the document in relation to the image of the face provided in the document, to an extent obstructing identification of the holder of the document or rendering it impossible;
- (3) loss of the document;
- (4) destruction of the document.

Article 257. 1. A Polish travel document for a foreigner shall be issued or refused to be issued, replaced or refused to be replaced by the voivode competent with respect to the place of residence of the foreigner.

2. A foreigner shall be refused to be issued the document referred to in paragraph 1 by way of decision.

Article 258. 1. A foreigner shall return his/her Polish travel document for a foreigner to the authority which has issued it where:

- (1) he/she has acquired Polish citizenship;
- (2) a decision on cancellation of this document has been issued;
- (3) a decision on revocation of a permanent residence permit, a long-term resident's EU residence permit or a residence permit for humanitarian reasons granted to him/her has been issued;
- (4) a decision on depriving him/her of subsidiary protection has been issued;
- (5) he/she has obtained a travel document.

2. A foreigner shall return his/her Polish travel document for a foreigner immediately, not later, however, than within 14 days from the date on which:

- (1) he/she was served with a document certifying the acquisition of Polish citizenship;
- (2) he/she was served with a travel document;
- (3) the decision referred to in paragraph 1(2)-(4) became final.

(2) In other respects, to the return of a Polish travel document for a foreigner the provisions of Article 249(3) and (4) shall apply.

Article 259. 1. A Polish travel document for a foreigner shall be cancelled where:

- (1) the document has been lost or destroyed – as of the date of notification of its loss or destruction to the competent authority;
- (2) it is replaced due to change in:

(1) the image of the face of the holder of the document in relation to the image of the face provided in the document, to an extent obstructing identification of the holder of the document or rendering it impossible,

(2) the data contained therein

– as of the date of collecting a new document;

(3) the foreigner has acquired Polish citizenship – as of the date of expiry of the deadline for the return of the document;

(4) the holder of the document has died – as of the date of notifying the competent authority of the death of the foreigner;

(5) the foreigner who, after the loss of his/her Polish travel document for a foreigner has been issued another document, has returned the regained Polish travel document, unless the document has already been cancelled – as of the date of its return;

(6) the foreigner has not returned his/her Polish travel document for the foreigner after he/she has received a travel document – immediately after the foreigner has been notified of obtaining a travel document.

2. A Polish travel document for a foreigner shall be cancelled by:

(1) the authority which has issued the document, where:

(a) the holder of the document has acquired Polish citizenship or he/she has died,

(b) the decision on revocation of a permanent residence permit, a long-term resident's EU residence permit or a residence permit for humanitarian reasons, or the decision on depriving the foreigner of subsidiary protection or on cancellation of the document has become final,

(c) another person's document has been returned by a person who has found it, unless the document has already been cancelled,

(d) the foreigner has returned the regained document in the case referred to in Article 233(2), unless the document has already been cancelled,

(e) the foreigner has received a travel document;

(2) the authority which has replaced the document, in the case of:

(a) notifying the competent authority of the loss or destruction of the document,

(b) collecting a new document in the cases referred to in Article 256(1) and (2).

Article 260. 1. A Polish identity document of a foreigner may be issued to:

(1) a minor foreigner born in the territory of the Republic of Poland and residing in this territory unattended by his/her parents, as long as this is not against the interest of the Republic of Poland and is justified by the interest of the child;

(2) a foreigner who resides in the territory of the Republic of Poland on the basis of the certificate referred to in Article 170;

(3) a foreigner who resides in the territory of the Republic of Poland and has no citizenship, provided this is justified by the interest of the Republic of Poland.

2. A foreigner referred to in paragraph 1 may be issued a Polish identity document of a foreigner if the foreigner does not have a travel document and is unable to obtain another proof of identification.

Article 261. 1. Within the period of its validity, a Polish identity document of a foreigner shall confirm the identity of the foreigner during his/her stay in the territory of the Republic of Poland, but it shall not confirm his/her citizenship.

2. The document referred to in paragraph 1 shall not entitle its holder to cross the border.

3. Holding the document referred to in paragraph 1 shall not exempt the foreigner from the obligation to obtain a visa, a temporary residence permit, a permanent residence permit or a long-term resident's EU residence permit.

Article 262. A Polish identity document of a foreigner shall be valid for 1 year from the date of its issue.

Article 263. 1. A Polish identity document of a foreigner shall include:

- (1) the first name(s) and surname of the foreigner and the first names of his/her parents;
- (2) date, place and country of birth;
- (3) address of permanent or temporary residence;
- (4) information about the sex of the foreigner;
- (5) information about the height (in centimetres) and the colour of the eyes of the foreigner;
- (6) the name of the issuing authority;
- (7) date of its issue;
- (8) date of its expiry;
- (9) a photograph of the foreigner;
- (10) a notice that the document does not confirm the foreigner's citizenship, does not entitle its holder to cross the border nor is it a document certifying the legality of the stay.

2. A Polish identity document of a foreigner shall contain the signature of its holder and may include encoded data referred to in paragraph 1(1), (2), (4) or (8).

3. A Polish identity document of a foreigner shall not include the data referred to in paragraph 1(3) where the foreigner has not registered his/her residence in the place of temporary residence lasting over 2 months.

Article 264. 1. A Polish identity document of a foreigner shall be issued or refused to be issued, replaced or refused to be replaced by the voivode competent with respect to the place of residence of the foreigner.

2. A foreigner shall be refused to have a Polish identity document of a foreigner issued or replaced by way of decision.

Article 265. 1. To the replacement of a Polish identity document of a foreigner the provisions of Article 256 shall apply.

2. A foreigner shall return his/her Polish identity document of a foreigner where:

- (1) he/she has acquired Polish citizenship;
- (2) a decision on the cancellation of the document has been issued.

3. A foreigner shall return his/her Polish identity document of a foreigner to the authority which has issued it immediately, not later, however, than within 14 days from the date on which:

- (1) he/she was served with a document certifying the acquisition of Polish citizenship, or
- (2) the decision referred to in paragraph 2(2) became final.

4. In other respects, to the return of a Polish identity document of a foreigner the provisions of Article 249(3) and (4) shall apply.

Article 266. 1. A Polish identity document of a foreigner shall be cancelled where:

(1) the document has been lost or destroyed – as of the date of notifying its loss or destruction to the competent authority;

(2) the document has been replaced due to a change in:

- (a) the image of the face of the holder of the document in relation to the facial image provided in the document, to an extent obstructing identification of the holder of the document or rendering it impossible,
- (b) the data contained therein

– as of the date of collecting a new document;

(3) the foreigner has acquired Polish citizenship – as of the date of expiry of the deadline for the return of the document;

(4) the holder of the document has died – as of the date of notifying the competent authority of his/her death;

(5) the foreigner who, after the loss of his/her Polish identity document of a foreigner has been issued another document, has returned the regained Polish identity document of a foreigner, unless the document has already been cancelled – as of the date of its return.

2. A Polish identity document of a foreigner shall be cancelled by:

- (1) the authority which has issued the document, where:

- (a) the holder of the document has acquired Polish citizenship or he/she has died,
 - (b) another person's document has been returned by a person who has found it, unless the document has already been cancelled,
 - (c) the foreigner has returned the regained document in the case referred to in Article 233(2), unless the document has already been cancelled,
 - (d) the decision on cancellation of the document has become final;
- (2) the authority which has issued the document, in the event of:
- (e) notifying the competent authority of the loss or destruction of the document,
 - (f) collecting a new document in the cases referred to in Article 256(1) or (2).

Article 267. A provisional Polish travel document for a foreigner shall be issued to a foreigner intending to return to the territory of the Republic of Poland, who has lost his/her travel document during his/her stay abroad or whose travel document has been destroyed or has lost its validity, and the foreigner is unable to obtain a new travel document, where:

- (1) the foreigner has been granted:
- (a) a permanent residence permit,
 - (b) a long-term resident's EU residence permit,
 - (c) subsidiary protection,
 - (d) a residence permit for humanitarian reasons;
- (2) the foreigner has been granted refugee status.

Article 268. A provisional Polish travel document for a foreigner may be issued to a foreigner who does not have a travel document and is unable to obtain a new travel document, where the foreigner:

- (1) is subject to relocation or resettlement;
- (2) intends to leave the territory of the Republic of Poland or has been obliged to leave this territory.

Article 269. Within the period of its validity, a provisional Polish travel document for a foreigner shall entitle a foreigner:

- (1) referred to in Article 267 and Article 268(1) – to a single entry into the territory of the Republic of Poland;
- (2) referred to in Article 268(2) – to leave the territory of the Republic of Poland.

Article 270. A provisional Polish travel document for a foreigner shall be valid for the period specified in it, not longer, however, than 7 days.

Article 271. 1. A provisional Polish travel document for a foreigner shall include:

- (1) the first name(s) and surname of the foreigner;

- (2) date, place and country of the foreigner's birth;
- (3) information about the foreigner's citizenship;
- (4) information about the sex of the foreigner;
- (5) information about the height (in centimetres) and the colour of the eyes of the foreigner;
- (6) the first names and surnames, dates, places and countries of birth and sex of the foreigner's children accompanying him/her or other minors in his/her custody;
- (7) the name of the issuing authority;
- (8) the first name and surname, position and signature of the person issuing the document;
- (9) date of its issue;
- (10) date of its expiry;
- (11) a photograph of the foreigner;
- (12) photographs of the foreigner's children accompanying him/her or other minor children in his/her custody.

2. A provisional Polish travel document for a foreigner shall include the signature of its holder and may contain encoded data referred to in paragraph 1(1)-(4) or 10.

Article 272. 1. A provisional Polish travel document for a foreigner shall be issued or refused to be issued:

- (1) in the Republic of Poland – by the voivode competent with respect to the place of residence of the foreigner, or – where the foreigner is obliged to leave the territory of the Republic of Poland – by the commanding officer of a Polish Border Guard outpost;
- (2) outside the Republic of Poland – by a consul.

2. A foreigner shall be refused to be issued a temporary Polish travel document for a foreigner by way of decision.

3. A foreigner who has been refused by a consul to be issued a provisional Polish travel document for a foreigner may apply for re-examination of the case by the same authority.

4. The Commander-in-Chief of the Polish Border Guard shall be a higher-level authority in relation to the commanding officer of a Polish Border Guard outpost in matters related to a provisional Polish document for a foreigner.

5. A request for re-examination of the case by a consul shall be made within 7 days from the date on which the foreigner was served with a decision on refusal to be issued a provisional Polish travel document for a foreigner.

Article 273. A “permit for tolerated stay” shall be issued to a foreigner who has been granted a permit for tolerated stay in the territory of the Republic of Poland.

Article 274. 1. Within the period of its validity, a “permit for tolerated stay” shall confirm the identity of a foreigner during his/her stay in the territory of the Republic of Poland, but it shall not confirm his/her citizenship.

2. A “permit for tolerated stay” shall not entitle its holder to cross the border.

Article 275. A “permit for tolerated stay” shall be valid for 2 years from the date of its issue.

Article 276. 1. A “permit for tolerated stay” shall include:

- (1) the first name(s) and surname of the foreigner;
- (2) the first names of the foreigner’s parents;
- (3) date, place and country of the foreigner's birth;
- (4) address of the foreigner’s registered permanent or temporary residence;
- (5) information about the foreigner’s citizenship;
- (6) information about the sex of the foreigner;
- (7) information about the height (in centimetres) and the colour of the eyes of the foreigner;
- (8) identification number of the foreigner in the Universal Electronic System for Registration of the Population (PESEL) – if assigned;
- (9) the name of the issuing authority;
- (10) date of its issue;
- (11) date of its expiry;
- (12) a photograph of the foreigner;
- (13) the foreigner’s fingerprint image;
- (14) a notice that the document does not confirm the foreigner’s citizenship nor does it entitle him/her to cross the border.

2. A “permit for tolerated stay” shall include the signature of its holder and may contain encoded data referred to in paragraph 1(1), (3), (5), (6) or (11).

3. A “permit for tolerated stay” shall not include the data referred to in paragraph 1(4) where the foreigner has not registered his/her residence in the place of temporary residence lasting more than 2 months.

Article 277. 1. A “permit for tolerated stay” shall be issued or refused to be issued by the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost who has granted the foreigner a permit for tolerated stay, and it shall be replaced or refused to be replaced by the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost competent with respect for the place of residence of the foreigner.

2. A foreigner shall be refused to be issued a “permit for tolerated stay” or to have it replaced by way of decision.

3. The Head of the Office shall be a higher-level authority, within the meaning of the Code of Administrative Proceedings, in relation to the commanding officer of a Border Guard unit or the commanding officer of a Border Guard outpost in the matters referred to in paragraph 2.

4. Where the permit for tolerated stay has been granted by the Head of the Office or where the Head of the Office has rendered a decision on the issue or replacement of a "permit for tolerated stay", the document shall be issued or replaced by the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost who ruled on these matters in the first instance.

Article 278. 1. A foreigner applying for the issue or replacement of a “permit for tolerated stay” shall have his/her fingerprints taken by the authority competent to issue this document.

2. Where the foreigner has failed to have his/her fingerprints taken in the cases referred to in paragraph 1, initiation of the proceedings on the issue or replacement of a “permit for tolerated stay” shall be refused.

Article 279. To the collecting of a “permit for tolerated stay” the provisions of Article 248 shall apply.

Article 280. 1. To the replacement of a “permit for tolerated stay” the provisions of Article 256 shall apply.

(1) A foreigner shall return his/her “permit for tolerated stay” where:

(1) he/she has acquired Polish citizenship;

(2) a decision on the cancellation of the document has been issued;

(3) a decision on revocation of his/her permit for tolerated stay has been issued;

(4) the decision on granting him/her a permit for tolerated stay has expired by operation of law pursuant to the provisions of Article 354(1)(1), (3) or (4) or Article 354(2).

3. A foreigner shall return his/her “permit for tolerated stay” to the authority which has issued it immediately, not later, however, than within 14 days from the date on which:

(1) he/she was served with a document certifying the acquisition of Polish citizenship, or

(2) the decision referred to in paragraph 2(2)-(4) became final or expired.

(3) In other respects, to the return of a “permit for tolerated stay” the provisions of Article 249(3) and (4) shall apply.

Article 281. 1. A “permit for tolerated stay” shall be cancelled where:

(1) the document has been lost or destroyed – as of the date of notifying its loss or destruction to the competent authority;

(2) the document has been replaced due to a change in:

- (a) the image of the face of the holder of the document in relation to the image of the face provided in the document, to an extent obstructing identification of the holder of the document or rendering it impossible,
 - (b) the data contained therein
- as of the date of collecting a new document;
- (3) the foreigner has acquired Polish citizenship – as of the date of expiry of the deadline for the return of the document;
 - (4) the holder of the document has died – as of the date of notifying the competent authority of the death of the foreigner;
 - (5) the foreigner has failed to return it pursuant to Article 280(2)(2)-(4) – as of the date on which the decision referred to in Article 280(2)(2)-(4) became final or expired.
 - (6) it has been returned by a person who has found it and its loss has not been reported – as of the date of its return;
 - (7) the foreigner who, after the loss of his/her “permit for tolerated stay” has been issued another document, has returned the regained “permit for tolerated stay”, unless the document has already been cancelled – as of the date of its return.

2. A “permit for tolerated stay” shall be cancelled by:

- (1) the authority which has issued the document, where:
 - (a) the holder of the document has acquired Polish citizenship or he/she has died,
 - (b) another person’s document has been returned by a person who has found it, unless the document has already been cancelled,
 - (c) the foreigner has returned the regained document in the case referred to in Article 233 (2), unless the document has already been cancelled,
 - (d) the decision on revocation of the permit for tolerated stay or cancellation of the document has become final,
 - (e) the decision on the granting of a permit for tolerated stay has expired by operation of law pursuant to the provisions of Article 354(1)(1), (3) or (4) and Article 354(2);
- (2) the authority which has replaced the document, in the case of:
 - (a) notifying the competent authority of the loss or destruction of the document,
 - (b) collecting a new document in the cases referred to in Article 256(1) or (2).

Article 282. To the collecting of a Polish travel document for a foreigner, a Polish identity document of a foreigner or a provisional Polish travel document for a foreigner the provisions of Article 248(1) and (2) shall apply.

Article 283. Where the authority conducting border checks on a foreigner or controlling the legality of his/her stay has established that the foreigner uses any of the documents which he/she was obliged to return pursuant to Article 233(2), Article 249(1), Article 258(1), Article 265(2) or Article 280(2), it shall:

- (1) retain such a document;
- (2) issue, free of charge, a certificate attesting that such a document has been retained;
- (3) forward the retained document to the authority which has issued it;
- (4) document the implementation of the procedure referred to in subparagraphs 1-3.

Article 284. 1. Where a foreigner, in spite of being obliged to return any of the documents referred to in Article 226(1)-(3) and (5), has failed to return such a document or where the foreigner has notified of the loss of such a document, the authority to which the document should have been returned or the authority which has been notified of the loss of the document shall enter the information on such a document in the Schengen Information System for the purposes of its retention.

2. The authority which pursuant to paragraph 1 has entered information on the document in the Schengen Information System shall remove such information once the document has been returned.

Article 285. 1. The minister competent for internal affairs shall specify, by way of ordinance:

- (1) the template of:
 - (b) the residence card,
 - (c) the Polish travel document for a foreigner,
 - (d) the Polish identity document of a foreigner,
 - (e) the provisional Polish travel document for a foreigner,
 - (f) the "permit for tolerated stay",
 - (g) the form used for the purposes of notifying the loss or destruction of a residence card, a Polish travel document for a foreigner, a Polish identity document of a foreigner or a "permit for tolerated stay",
 - (h) a document certifying the loss or destruction of a residence card, a Polish travel document for a foreigner, a Polish identity document of a foreigner or a "permit for tolerated stay",
 - (i) a document certifying the return of a residence card, a Polish travel document for a foreigner, a Polish identity document of a foreigner or a "permit for tolerated stay",
 - (j) a document certifying the retention of a residence card or the documents referred to in points (a)-(e);
- (2) the template of the application form for:
 - (a) the issue or replacement of a Polish travel document for a foreigner,
 - (b) the issue or replacement of a Polish identity document of a foreigner,

- (c) the issue of a provisional Polish travel document for a foreigner,
 - (d) the issue or replacement of a residence card,
 - (e) the issue of a "permit for tolerated stay" or the replacement of this document;
- (3) the number of photographs attached to the applications referred to in subparagraph 2 and detailed technical requirements for photographs attached to the applications;
- (4) the manner and procedure of cancellation of a residence card, a Polish travel document for a foreigner, a Polish identity document of a foreigner and a "permit for tolerated stay";
- (5) the method of taking the fingerprints of a foreigner for the purposes of providing them in his/her residence card or a "permit for tolerated stay";
- (6) the method of capturing the data included in a residence card or a "permit for tolerated stay" and transferring it for the purposes of personalisation of the "permit for tolerated stay".

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account:

- (1) the need to ensure the clarity and completeness of the templates referred to in paragraph 1(1);
- (2) personal data necessary for the issue or replacement of a Polish travel document for a foreigner, a Polish identity document of a foreigner, a provisional Polish travel document for a foreigner, a residence card and a "permit for tolerated stay";
- (3) providing for efficient elimination of defective documents.

Article 286. 1. Foreigners from third countries who are school pupils participating in school trips to another European Union Member State on the principles laid down in Council Decision 94/795/JHA of 30 November 1994 on a joint action adopted by the Council on the basis of Article K.3 (2)(b) of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State may be covered by a list of travellers for school trips within the European Union drawn up by the head teacher of the school.

2. Personal data of foreigners participating in trips within the European Union and their right to re-enter the territory of the Republic of Poland shall be confirmed, at the request of the head teacher of the school, by the voivode competent with respect of the location of the school.

3. The list of travellers referred to in paragraph 1 shall be drawn up on a form.

Article 287. 1. The minister competent for internal affairs, in consultation with the minister competent for foreign affairs and the minister competent for education, shall specify, by way of ordinance, the template of the form of a list of travellers for trips within the European Union.

2. In the ordinance referred to in paragraph 1, the minister competent for internal affairs shall take into account personal data to the extent that it is necessary to comply with the requirement for entry into the territory of the Republic of Poland by foreigners from third countries who are school pupils participating in school trips to another European Union Member State and their stay in that territory, and shall provide for verification of such data, as well as the need to ensure smooth border crossing.

SECTION VIII

Control of the legality of foreigners' stay in the territory of the Republic of Poland and imposing the return obligation on the foreigner

Chapter 1

Control of the legality of foreigners' stay in the territory of the Republic of Poland

Article 288. During his/her stay in the territory of the Republic of Poland, a foreigner shall be obliged to have a valid travel document and documents authorising him/her to stay in the territory of the Republic of Poland, if these are required.

Article 289. 1. Control of the legality of foreigners' stay in the territory of the Republic of Poland in order to establish the actual state of affairs as regards the compliance with regulations on the entry and stay of foreigners in this territory shall be carried out by competent authorities of the Polish Border Guard and the Police.

2. The Head of the Office and a voivode may carry out control of the legality of foreigners' stay in the territory of the Republic of Poland to the extent necessary to conduct by these authorities proceedings related to foreigners.

3. Authorities of the Customs Service may carry out the control referred to in paragraph 1 as part of controls carried out by them, on the principles and in accordance with the procedure specified in:

- (1) the Act of 20 June 1997 – Law on Road Traffic (Dz. U. of 2012, item 1137, as amended²³);
- (2) the Act of 6 September 2001 on road transport (Dz. U. of 2013, item 1414);
- (3) the Act of 24 August 2007 on the participation of the Republic of Poland in the Schengen Information System and the Visa Information System (Dz. U. No. 165, item 1170, as amended²⁴);
- (4) the Act of 27 August 2009 on the Customs Service (Dz. U. of 2013, item 1404);
- (5) the Gambling Law of 19 November 2009 (Dz. U. No. 201, item 1540, as amended²⁵) in connection with the Act of 6 July 2001 on gathering, processing and transfer of criminal information (Dz. U. of 2010, No. 29, item 153, as amended²⁶).

Article 290. Central and local government bodies shall be obliged to cooperate with the authorities of the Polish Border Guard, the Police, the Customs Service, the Head of the Office and voivodes as regards carrying out the control referred to in Article 289.

Article 291. 1. Control of the legality of foreigners' stay in the territory of the Republic of Poland shall be carried out by minimum two officers of the Polish Border Guard, Police, the Customs Service,

²³ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2012, item 1448 and of 2013, items 700, 991, 1446 and 1611.

²⁴ Amendments to the Act were promulgated in Dz. U. of 2008, No. 195, item 1198 and No. 216, item 1367 and of 2010, No. 41, item 233, No. 81, item 531 and No. 239, item 1593.

²⁵ Amendments to the Act were promulgated in Dz. U. of 2010, No. 127, item 857, of 2011, No. 106, item 622 and No. 134, item 779 and of 2013, item 1036.

²⁶ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2010, No. 167, item 1131, No. 182, item 1228 and No. 229, item 1497 and of 2011, No. 230, item 1371.

hereinafter referred to as "officers", or minimum two authorised employees of the Office or a voivodeship office, hereinafter referred to as "employees".

2. Such control may be carried out jointly by officers and employees, as long as it is carried out by minimum two individuals.

3. In the headquarters of the Office or a voivodeship office, control may be carried out by one employee.

4. Control may be performed by one officer if in the course of performing other professional duties by him/her grounds for performing such control have been found.

Article 292. 1. An officer shall carry out control upon producing his/her official identity card or identification tag.

2. An employee shall carry out control upon stating his/her first name and surname and producing an authorisation to carry out control.

3. The authorisation referred to in paragraph 2 shall include:

- (1) legal basis for carrying out control;
- (2) details of the designated authority;
- (3) date and place of its issue;
- (4) the first name and surname of the employee authorised to carry out control;
- (5) determination of the scope of control;
- (6) date of its validity;
- (7) signature and position of the authorising person.

Article 293. In the course of the control, the officer or employee may request to be presented with:

- (1) a travel document and documents authorising the foreigner to stay in the territory of the Republic of Poland;
- (2) financial means appropriated to cover the costs of:
 - (a) the foreigner's subsistence during his/her stay in the territory of the Republic of Poland,
 - (b) the foreigner's return to the country of origin or residence,
 - (c) transit of the foreigner through the territory of the Republic of Poland to a third country which will grant him/her a permit for entry;
- (3) a document certifying that the foreigner is able to lawfully obtain the financial means referred to in subparagraph 2;
- (4) documents entitling the foreigner to work, conduct business activity or be entrusted with the performance of work;

(5) documents certifying the purpose and conditions of the foreigner's stay in the territory of the Republic of Poland.

Article 294. 1. A foreigner subject to control shall be obliged to produce the documents referred to in Article 293(1), (4) and (5), and the financial means or a document certifying that he/she is able to lawfully obtain financial means referred to in Article 293(2) and (3), if these are required.

2. The obligation referred to in paragraph 1 shall not apply to a foreigner who has arrived in the territory of the Republic of Poland for the purposes of family reunification, to a person who has been granted refugee status.

Article 295. 1. In the course of the control, the officer or employee shall take the foreigner's fingerprints for the purpose referred to in Article 20(1) of Regulation No 767/2008.

2. In the course of the control, the officer or employee may take the foreigner's fingerprints for the purpose referred to in Article 19(1) of Regulation No 767/2008.

3. The officer or employee shall verify the fingerprints taken from the foreigner for the purpose referred to in Article 19(1) or Article 20(1) of Regulation No 767/2008, in the Visa Information System, and in other ways enabling him/her to establish the identity of the foreigner or verify the authenticity of the Schengen visa held by the foreigner.

Article 296. 1. Following the control, where it is established that the foreigner's stay is:

(1) inconsistent with the rules governing the conditions of entry of foreigners into the territory of the Republic of Poland and their stay in this territory, the officer or employee shall draw up a report from the control of the legality of the foreigner's stay in the territory of the Republic of Poland;

(2) consistent with the rules governing the conditions of entry of foreigners into the territory of the Republic of Poland and their stay in this territory:

(a) the officer shall acknowledge the fact that the control has been carried out in the official notebook or he/she shall draw up a memo,

(b) the employee shall draw up a memo.

2. A Police authority, the Head of the Office, a voivode or an authority of the Polish Border Guard shall notify the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost competent to issue a decision on imposing the return obligation on the foreigner, of ascertaining, as a result of the control, that the foreigner's stay is inconsistent with the rules governing the conditions of entry of foreigners into the territory of the Republic of Poland and their stay in this territory.

Article 297. 1. The report referred to in Article 296(1)(1) shall include:

(1) the rank, first name and surname as well as the professional identity card number of the officer or the first name and surname of the employee and the authorisation number, the date of issuing the authorisation and the name of the authorising authority;

(2) date and place of drawing up the report;

(3) date and time of commencement and completion of the control;

- (4) place of the control;
 - (5) the first name and surname, date of birth and citizenship of the foreigner subject to the control;
 - (6) place of residence of the foreigner and his/her residence address in the territory of the Republic of Poland;
 - (7) description of the grounds for carrying out the control;
 - (8) description of the controlled documents specifying their number, expiry dates and the name of the issuing authority;
 - (9) outcome of the control;
 - (10) signature of the officer or employee drawing up the report;
 - (11) signature of the foreigner or an endorsement of the reasons for its absence;
 - (12) the first name and surname and signature of the translator participating in the control, if applicable.
2. The foreigner shall be provided with a copy of the report.
3. Where the foreigner refuses to sign the report, he/she shall be provided with a copy of the report signed by the officer or employee.

Article 298. The memo referred to in Article 296(1)(2) shall include:

- (1) date and place of its preparation;
- (2) date and time of commencement and completion of the control;
- (3) the first name and surname, date of birth and citizenship of the foreigner subject to the control;
- (4) place of residence of the foreigner and his/her residence address in the territory of the Republic of Poland;
- (5) outcome of the control;
- (6) signature of the officer or employee drawing up the report;
- (7) the first name and surname and signature of the translator participating in the control, if applicable.

Chapter 2

Return obligation

Article 299. 1. A foreigner shall be obliged to leave the territory of the Republic of Poland before the expiry of the period of stay of a Schengen visa or a national visa and before the expiry of the visa.

2. A foreigner who resides within the territory of the Republic of Poland on the basis of an international agreement on the abolition of a visa obligation or on unilateral the abolition of visa obligation or to whom a partial or total abolition of the visa obligation applies – as defined in Council

Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement – shall be obliged to leave the territory before the expiry of the period specified in the international agreement, in the unilateral abolition of the visa obligation or the Regulation.

3. A foreigner staying within the territory of the Republic of Poland under visa-free travel regime on the basis of an international agreement on the abolition of a visa obligation or in connection with unilateral abolition of the visa obligation by the Republic of Poland shall be obliged to leave the territory after the expiration of the period of stay to enter the territory of the Republic of Poland no later than after the expiry of three months from the date of expiry of validity of the agreement or the restoration of the visa obligation.

4. If the expiry of validity of the agreement on total or partial abolition of the visa obligation or restoration of the visa obligation occurred prior to the announcement of one of those facts as provided for by law, the date referred to in paragraph 3 shall be counted from the date of this announcement.

5. A foreigner shall be obliged to leave the territory of the Republic of Poland before the expiry of the validity of a temporary residence permit.

6. A foreigner shall be obliged to leave the territory of the Republic of Poland within 30 days of the day when a decision:

1) on refusal to extend his/her Schengen visa or a national visa, to grant him/her a temporary residence permit or a permanent residence permit or a long-term resident's EU residence permit or a decision to withdraw his/her temporary residence permit, a permanent residence permit or a long-term resident's EU residence permit or

2) on refusal to grant him/her refugee status or subsidiary protection award or a decision to discontinue the proceedings on granting him/her refugee status or decision to deprive him/her of the refugee status or subsidiary protection or

3) on withdrawal of residence permit for humanitarian reasons

- has become final and binding, and in case of being issued by a superior body – from the date on which the final and binding decision has been delivered to a foreigner.

7. Stay of a foreigner within the territory of the Republic of Poland during the period referred to in paragraph 6 shall be considered legal, unless a request for an extension of his/her Schengen visa or national visa or to grant him/her a temporary residence permit, permanent residence permit or a long-term resident's EU residence permit was filed after the expiration of his/her legal residence within the territory.

8. The provisions of paragraphs 1, 2, 5 and 6 shall not apply if the foreigner has a valid document entitling him/her to stay within the territory of the Republic of Poland or this Act indicates that his/her stay within this territory is considered legal.

9. Provision of paragraph 6(2)(7) shall not apply if:

1) on the date of the decision to refuse refugee status or subsidiary protection award or the decision to discontinue the proceedings on granting refugee status, a foreigner staying in a guarded centre or in a remand centre, or

2) a decision on refusal to grant refugee status or subsidiary protection award or a decision to discontinue the proceedings on granting him/her refugee status was issued because another application for the refugee status has been submitted.

Article 300. 1. A Voivode competent for the place of stay of a foreigner who resides within the territory of the Republic of Poland under an international agreement on the abolition of a visa obligation or to whom a partial or total abolition of the visa obligation applies – as defined in Council Regulation (EC) No 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement – in justified cases may extend the period of stay within the territory of the Republic of Poland by further 90 days if such an opportunity is provided for in the agreement on the abolition of the visa obligation.

2. A foreigner shall submit an application for an extension of stay under the visa-free travel regime within the territory of the Republic of Poland in person no later than the last day of his/her legal residence within this territory under the visa-free travel regime and shall justify his/her application.

3. Extension of the period of stay under the visa-free travel regime within the territory of the Republic of Poland shall be made by means of a stamp in the foreigner's travel document to confirm the extension of the period of stay by 90 days.

4. A stay within the territory of the Republic of Poland of a foreigner who has submitted an application for an extension of stay under the visa-free travel regime within this territory within the period referred to in paragraph 2 shall be considered legal until the day when a stamp has been made in the foreigner's travel document to confirm the extension of the residence or until the date of the decision issued by a Voivode to refuse to extend the period of stay, but not longer than for 90 days, counting from the day following the expiry of the period of stay under the visa-free travel regime, provided that the application is free from any formal defects, or the deficiencies have been formally completed on time.

5. Article 299(2) shall not apply to a foreigner for whom a Voivode extended the period of stay under the visa-free travel regime within the territory of the Republic of Poland pursuant to paragraphs 1-3.

Article 301. 1. Extension of the period of stay under the visa-free travel regime within the territory of the Republic of Poland shall be refused by way of decision.

2. The minister competent for internal affairs shall specify, by regulation, the pattern of a stamp to confirm the extension of the period of stay under the visa-free travel regime within the territory of the Republic of Poland for 90 days, bearing in mind the need to ensure an opportunity for effective verification of the extension of the period of stay.

Article 302. 1. A decision on imposing the return obligation to his/her country of origin shall be issued to a foreigner:

1) resides or resided within the territory of the Republic of Poland without a valid visa or another valid document authorising him/her to enter this territory and stay within it, if a visa or the other document is or were required or

- 2) has not left the territory of the Republic of Poland after the lapse of the maximum duration of his/her stay within the territory of some or all Schengen countries to which he/she was entitled without the need for a visa for 180 days in each period, unless international agreements provide otherwise, or
- 3) has not left the territory of the Republic of Poland after the lapse using the maximum duration of his/her stay indicated in the Schengen visa within each 180-day period or after the lapse of the permissible period of stay on the basis of a national visa, or
- 4) performs or performed work without a required work permit or an employer's declaration of intention (registered in a district labour office) to employ him/her to perform work, or has been fined for illegal performance of work, or
- 5) operated an economic activity in breach of the regulations applicable in this regard within the territory of the Republic of Poland, or
- 6) does not have the financial resources necessary to cover the costs of his/her stay within the territory of the Republic of Poland, to travel back to the country of origin or residence or transit through the territory of the Republic of Poland to a third country that will grant a permission to enter and has not indicated reliable sources to obtain such funds, or
- 7) the foreigner is entered in the register of foreigners whose stay within the territory of the Republic of Poland is undesirable, or
- 8) the foreigner's data can be found in the Schengen Information System for the purposes of refusing entry if the foreigner stays within the territory of the Republic of Poland under the visa-free travel regime or under a Schengen visa, with the exception of a visa authorising only the entry and stay within the territory of the Republic of Poland, or
- 9) it is justified by national security or defence, the protection of public order and safety or the interests of the Republic of Poland, or
- 10) has crossed or attempted to cross the border in breach of legal regulations, or
- 11) has been convicted in the Republic of Poland by a final decision for a custodial sentence subject to execution, and there are grounds to conduct proceedings on his/her transfer abroad for the purpose of enforcing the penalty against him, or
- 12) resides outside the border zone in which according to the permit for crossing the border under the local border traffic, he/she may reside, unless international agreements stipulate otherwise, or
- 13) stays within the territory of the Republic of Poland after lapse of the period of stay to which he/she was entitled under a permit to cross the border under the local border traffic, unless international agreements stipulate otherwise, or
- 14) further stay of the foreigner within the territory of the Republic of Poland would be a threat to public health, which was confirmed by clinical examination, or to the international relations of another European Union Member State, or
- 15) the purpose and conditions of stay of a foreigner within the territory of the Republic of Poland are inconsistent with the declared ones, unless the legal regulations allow him/her to be changed, or

16) a decision on refusal to grant refugee status or subsidiary protection award or a decision to discontinue the proceedings on granting him/her refugee status was issued and he/she has not left the territory of the Republic of Poland within the deadline and in the case referred to in Article 299(6)(2).

2. The provisions of paragraph 1(1)-(3) shall not apply in the cases referred to in Article 299(6).

3. The provisions of paragraph 1(2) and (3) shall not apply if the foreigner has a valid document entitling him/her to stay within the territory of the Republic of Poland or this Act indicates that his/her stay within this territory is considered legal.

4. The provision of paragraph 1(4) shall not apply in the case referred to in Article 120(3) of the Act of 20 April 2004 on employment promotion and labour market institutions.

5. The proceedings concerning the imposition of the return obligation for a foreigner who holds a temporary residence permit referred to in Article 158(1) and Article 159(1) or a foreigner who was joined by a foreigner with a temporary residence permit referred to in Article 159(1) shall take into account the period of stay of a foreigner within the territory of the Republic of Poland and the existence of cultural and social ties with the country of origin.

Article 303. 1. In the cases referred to in Article 302(1), a decision on imposing the return obligation shall not be issued to a foreigner if:

1) he/she has the refugee status or subsidiary protection or

2) he/she has been granted residence permits for humanitarian reasons or permits for tolerated stay, or there are reasons to grant him/her, or

3) he/she has been awarded the permit referred to in Article 187(6) or (7), or

4) he/she is a spouse of a Polish citizen or a foreigner holding a residence permit or a long-term resident's EU residence permit within the territory of the Republic of Poland and it is not in breach of national defence or national security or public safety and order, unless the purpose of marriage or of its existence is to circumvent this Act, or

5) he/she resides within the territory of the Republic of Poland on the basis of a Schengen visa issued for the purpose referred to in Article 60(1)(23) that authorises him/her to enter only the territory of the Republic of Poland and stay within this territory, the permit referred to in Article 181(1) or the permit referred to in Article 176, or

6) he/she was granted a permanent residence permit or a long-term resident's EU residence permit within the territory of the Republic of Poland, or

7) he/she has a residence permit or another permit for stay granted by another Schengen country, and it is not in breach of national defence or national security or public safety and order, unless the foreigner did not go immediately to the territory of that Schengen state upon being informed of the obligation to leave for the territory of the country referred to in Article 314, or

8) he/she is temporarily seconded to provide services within the territory of the Republic of Poland by an employer established in a Member State of the European Union, a Member States of the European Free Trade Association (EFTA) – a party to the agreement on the European Economic Area or Swiss Confederation and he/she is entitled to stay and be employed within the territory of that State,

if the decision on imposing the return obligation would have to be released due to being within the territory of the Republic of Poland without a valid visa or another document that authorises him/her to enter that territory and stay within it or due to crossing or attempted crossing of the border in violation of legal regulations, or

9) he/she can be immediately transferred to a third country on the basis of an international agreement on the transfer and acceptance of persons after prior arrest because of border crossing in violation of legal regulations, or

10) he/she can be immediately escorted to the border if he/she has arrested in the border zone immediately having unintentionally crossed the border in violation of legal regulations, or

11) he/she can be immediately transferred to another Member State of the European Union, a Member States of the European Free Trade Association (EFTA) – parties to the Agreement on the European Economic Area or the Swiss Confederation on the basis of an international agreement on the transfer and acceptance of persons, which was applicable on 13 January 2009, or

12) he/she resides within the territory of the Republic of Poland on the basis of a certificate referred to in Article 170.

2. In the case referred to in Article 302(1)(1), a decision on imposing the return obligation shall not be issued if, pursuant to the provisions of Article 120 and Article 135, the foreigner has requested that the decision referred to in those provisions be reversed pending the completion of the proceedings on the reversal of these decisions.

3. The provision of paragraph 1(1) shall not apply in the case referred to in Article 32(1) and Article 33(2) of the Convention relating to the Status of Refugees, signed in Geneva on 28 July 1951 (Dz.U. of 1991, No. 119, item 515, 516 and 517).

4. A request to institute proceedings on imposing the return obligation shall be rejected if there are pending proceedings on granting the foreigner the refugee status, unless the foreigner has submitted another application for the refugee status.

5. In particularly justified cases due to foreigner's health, it may be decided not to transfer a foreigner referred to in paragraph 1(9) to a third country. In the event of threat to life or health of a foreigner, medical care shall be provided to such a foreigner.

6. The costs of the provision of the medical care referred to in paragraph 5 shall be covered by the state budget from the part administered by the minister competent for internal affairs, by the funds at the disposal of the Polish Border Guard Commander-in-Chief.

Article 304. The authority that conducts the proceedings on imposing the return obligation shall instruct the foreigner about the opportunity to submit an application for refugee status.

Article 305. 1. The proceedings on imposing the return obligation shall be suspended in the case when proceedings on granting refugee status to a foreigner have been instituted or when he/she was granted a permit referred to in Article 176.

2. The proceedings on imposing the return obligation shall not be suspended if a foreigner has another submitted another application for refugee status.

Article 306. The decision on imposing the return obligation for a foreigner shall expire by virtue of law if:

- 1) he/she has the refugee status or subsidiary protection or
- 2) he/she resides within the territory of the Republic of Poland on the basis of a permit referred to in Article 176 or Article 187(6) or (7).

Article 307. 1. A national visa shall be invalidated and a temporary residence permit and a work permit shall expire by virtue of law on the day on which the decision on imposing the return obligation for a foreigner has become final.

2. On day on which a decision on imposing the return obligation for a foreigner issued pursuant to Article 302(1)(12) or (13) has become final and binding, a local border traffic permit shall be invalidated.

Article 308. For foreigners and members of their families who were granted a permit to perform work within the territory of the Republic of Poland under the terms of Decision No. 1/80 of the Association Council of the Republic of Turkey and the EEC of 19 September 1980 on the development of the Association, where the Council was established under the Agreement establishing an Association between the European Economic Community and Turkey, signed in Ankara on 12 September 1963:

- 1) the provisions of Articles 299-307, Articles 310-321, Article 329, Article 334 and Article 335 shall not apply;
- 2) the provisions of Chapter 5 of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families shall apply.

Article 309. In case of withdrawal of a foreigner's long-term resident's EU residence permit awarded to a foreigner who has granted international protection in another European Union Member State, the authority that has issued a decision on imposing the return obligation shall determine, through the Head of the Office, whether the foreigner still has international protection in that country.

Article 310. A decision on imposing the return obligation shall be issued to a foreigner:

- 1) ex officio by the commanding officer of the Polish Border Guard or the commanding officer of a Polish Border Guard outpost, which established the premises justifying the decision on imposing the return obligation on a foreigner;
- 2) at the request of a Voivode, the Minister of National Defence, the Chief of the Internal Security Agency, Chief of the Intelligence Agency, an authority of the Customs Service, a voivodeship or powiat (municipal) Police commander, the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost territorially competent for the seat of the authority that submits the application or for the place of residence of the foreigner.

Article 311. 1. In the case referred to in Article 302(1)(10), a decision on imposing the return obligation on a foreigner shall be issued using a form.

2. The authority that issued the decision on imposing the return obligation on a foreigner using a form shall inform a foreigner in writing in a language he/she understands about the legal basis, about the

contents of the decision and about the instruction about whether and how an appeal against their decision may be filed.

Article 312. The minister competent for internal affairs shall specify by way of an ordinance the following:

- 1) the contents of the application for a decision on imposing the return obligation on a foreigner, taking into account the need to ensure efficiency and regularity of the proceedings, in particular the need to obtain the information necessary to issue a decision on imposing the return obligation on a foreigner;
- 2) the method of recording the decision on imposing the return obligation on a foreigner in the travel document, taking into consideration the provision of a means to determine during controls of travel document whether such a decision was taken.

Article 313. The minister competent for internal affairs shall specify by way of ordinance the template of the form referred to in Article 311, while taking into account the need to assure efficiency of the proceedings conducted on the imposition of the return obligation on a foreigner.

Article 314. 1. The authority competent to issue a decision on imposing the return obligation on a foreigner in the cases referred to in Article 302(1)(1)-(8) and (10)-(16) shall instruct a foreigner holding a residence permit or another permit authorising him/her to stay granted by another Schengen country about the obligation to immediately leave for the territory of that State.

2. The authority competent to issue a decision on imposing the return obligation on a foreigner shall record the issue of the instruction referred to in paragraph 1 in the register referred to in Article 428(1)(6).

3. The instruction referred to in paragraph 1 shall be made in writing in a language understandable for a foreigner.

Article 315. 1. The decision on imposing the return obligation on a foreigner shall define a deadline for voluntary return, which ranges from 15 to 30 days, counting from the date of notification of the decision.

2. The decision referred to in paragraph 1 shall not specify the period for voluntary return of a foreigner if:

there is a likelihood that a foreigner will escape, or

it is required for reasons of national security or defence, the protection of public order and safety.

3. The likelihood that a foreigner will escape is evident in particular when a foreigner:

declared unwillingness to fulfil his/her obligations arising from the receipt of the decision on imposing the return obligation, or

has no documents certifying his/her identity, or

has crossed or attempted to cross the border in breach of legal regulations, or

entered the territory of the Republic of Poland in the duration of his/her inclusion in register of foreigners whose stay within the territory of the Republic of Poland is undesirable or in the Schengen Information System for the purpose of refusing entry.

4. The decision on imposing the return obligation on a foreigner issued without a specified period for voluntary return referred to in paragraph 2(2) shall indicate the state to which the foreigner should return.

5. The decision on imposing the return obligation on a foreigner issued without a specified period for voluntary return referred to in paragraph 2(2) shall be immediately enforceable.

6. In case when a foreigner crossed or attempted to cross the border in violation of legal regulations within the period after the issue of the decision on imposing the return obligation on the foreigner and before the deadline for voluntary return, the period referred to in paragraph 1 shall expire by virtue of law.

7. If the decision on imposing the return obligation has been issued to a foreigner referred to in Article 309 who still has international protection in another Member State of the European Union, a decision on imposing the return obligation shall indicate a European Union Member State in which the foreigner has international protection as the state to which the foreigner is to be returned.

8. If the decision on imposing the return obligation has been issued to a foreigner who resided within the territory of the Republic of Poland on the basis of a temporary residence permit in connection with the circumstances referred to in Article 186(1)(3), the decision on imposing the return obligation on a foreigner shall indicate a European Union Member State in which the foreigner has long-term resident's EU residence permit as the state to which the foreigner is to be returned.

9. If the decision on imposing the return obligation has been issued to a foreigner who resided within the territory of the Republic of Poland on the basis of a temporary residence permit as a member of the foreigner's family who resided within the territory of the Republic of Poland on the basis of a temporary residence permit in connection with the circumstances referred to in Article 186(1)(3), the decision on imposing the return obligation on a foreigner shall indicate a European Union Member State in which the member of the foreigner's family has long-term resident's EU residence permit as the state to which the foreigner is to be returned.

Article 316. 1. The authority issuing the decision on imposing the return obligation on a foreigner may extend the deadline for voluntary return if the foreigner is obliged to appear in person before the Polish public authority or if his/her presence within the territory of the Republic of Poland is required because of the interest of the Republic of Poland or exceptional personal situation of the foreigner, resulting in particular from the length of the foreigner's stay within the territory of the Republic of Poland, from the foreigner's family and social ties or a need to continue education by a minor child of the foreigner.

2. The authority that issued the decision on imposing the return obligation on a foreigner may extend the deadline for voluntary return specified therein because of the circumstances referred to in paragraph 1 also after the issue thereof upon request of the foreigner.

3. The deadline voluntary return referred to in paragraph 1 and 2 must not be longer than one year.

Article 317. 1. The decision referred to in paragraph 316(1) and (2) may oblige a foreigner, until the time of voluntary return, to do the following:

- 1) to report at specified intervals to the authority indicated in the ruling – until the date of voluntary return;
- 2) to pay a security deposit in an amount specified in the decision, no lower than twice the amount of the minimum wage stipulated by minimum wage regulations;
- 3) to provide the deposit to the body indicated in the decision of the travel document;
- 4) to reside in the place designated in the decision – until the day of voluntary return.

2. The decision referred to in Paragraph 1 provide for the use of one or more measures referred to in Paragraph 1.

3. The security deposit referred to in paragraph 1(2) and the travel document referred to in paragraph 1(3) shall be kept until a return ticket is produced by the foreigner.

4. A foreigner must not change the place of residence designated in the decision to extend the deadline for voluntary return without changes to that decision.

Article 318. 1. A decision on imposing the return obligation on a foreigner shall provide for the prohibition of re-entry into the territory of the Republic of Poland or into the territory of the Republic of Poland and other countries of the Schengen area and shall determine the period of such a prohibition.

2. A prohibition of re-entry into the territory of the Republic of Poland and other countries of the Schengen area shall be ruled in case of decision on imposing the return obligation on a foreigner in which:

- 1) no deadline for voluntary return has been specified;
- 2) a deadline for voluntary return has been specified – in case when, within this deadline, a foreigner:
 - a) has not left the territory of the Republic of Poland, or
 - b) has crossed or attempted to cross the border in breach of legal regulations.

3. A prohibition of re-entry into the territory of the Republic of Poland shall be ruled in case of decision on imposing the return obligation on a foreigner:

- 1) who has been granted international protection in another European Union Member State and has had his/her long-term resident's EU residence permit revoked, or
- 2) referred to in paragraph 315(8) or (9).

Article 319. The prohibition referred to in Article 318(1) shall be formulated for the following periods:

- 1) from 6 months to 3 years – in the cases referred to in Article 302(1)(1)-(3), (6), (10), (12), (13), (15) or (16);

- 2) from 1 year to 3 years – in the cases referred to in Article 302(1)(4)-(5);
- 3) from 3 to 5 years – in the cases referred to in Article 302(1)(7), (8), (11) or (14);
- 4) 5 years – in the cases referred to in Article 302(1)(9).

Article 320. 1. The authority that issued the decision on imposing the return obligation on a foreigner may withdraw the prohibition referred to in paragraph 318(1) by way of decision upon request of the foreigner, provided that the foreigner demonstrates that:

he/she has fulfilled his/her obligations arising from the decision on imposing the return obligation, or

his/her re-entry into the territory of the Republic of Poland or other Schengen states is to be made due to justified reasons, in particular for humanitarian reasons, or

he/she has been granted assistance in voluntary return referred to in:

- a) Article 334 or
- b) Article 75 of the Act of 13 June 2003 on Granting Protection to Foreigners within the Territory of the Republic of Poland.

2. The prohibition referred to in Article 318(1) shall not be withdrawn if:

- 1) the entry or stay of a foreigner within the territory of the Republic of Poland might pose a threat to national defence or national security or the protection of public safety and order or violate the interests of the Republic of Poland, or
- 2) the foreigner has not paid the fees due for the costs associated with the issue and execution of the decision on imposing the return obligation, which he/she was obliged to pay.

Article 321. The Head of the Office shall be a higher-level authority, within the meaning of the Administrative Code, in relation to the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost in the matters pertaining to the imposition of return obligation on a foreigner, extension of the deadline for voluntary return and withdrawal of the prohibition referred to in Article 318(1).

Article 322. The decision on imposing the return obligation on a foreigner may be passed by the authority to each other through a device capable of reading and writing character letters on paper or by means of telecommunications networks and may be delivered to a foreigner in the form obtained as a result of such transmission.

Article 323. 1. A Polish Border Guard Authority shall record the issue of a return obligation for a foreigner in the foreigner's travel document, and it shall immediately inform the authority that made the request for the issue thereof about it.

2. In the case of delivery of the decision on imposing the return obligation on a foreigner in the form referred to in Article 322, a body that executes this decision shall register the fact that it has been issued in the foreigner's travel document.

Article 324. The body that issued the decision on imposing the return obligation:

- 1) shall take the foreigner's fingerprints if he/she has not been taken after he/she has been arrested because of crossing the border in breach of legal regulations;
- 2) shall send the Commander-in-Chief as the image of the foreigner's fingerprints, his/her personal data and the information to be entered in the register referred to in Article 428 (1)(4);
- 3) shall take a photograph of the foreigner.

Article 325. 1. If a foreigner does not have a travel document, the Commander-in-Chief of the Polish Border Guard shall submit a request for such a document to an appropriate diplomatic or consular representation of the foreigner's country of origin.

2. If within the territory of the Republic of Poland there is no representation or office referred to in paragraph 1, the Commander-in-Chief of the Polish Border Guard shall submit a request for a travel document to a competent authority of the foreigner's country of origin.

3. Before issuing a travel document to a foreigner, competent authorities of the Polish Border Guard in justified cases allow diplomatic missions, consular offices or competent authorities of the countries of origin of a foreigner to carry out a conversation with him/her in the organisational units of the Polish Border Guard, diplomatic representations or consular offices of the countries of origin of a foreigner in order to confirm his/her citizenship.

4. The provisions of paragraphs 1 and 2 shall apply, provided that binding international agreements entered into by the Republic of Poland on the reception and transfer of people who do not fulfil the conditions for entry into the territory of the Republic of Poland and for stay within that territory or no longer fulfil these conditions, do not provide otherwise.

5. The conversation referred to in paragraph 3 shall be carried out in the presence of a Polish Border Guard officer and, if necessary, in the presence of an interpreter.

6. The conversation referred to in paragraph 3, carried out in the organisational units of the Polish Border Guard shall be recorded upon consent of the foreigner by means of technical sound recording devices in order to document its progress.

7. The collected sound recordings referred to in paragraph 6 shall be stored for a period of 20 days from the date of registration, and then destroyed according to the rules laid down in the Act of 12 October 1990 on the Polish Border Guard.

Article 326. 1. In the proceedings on the imposition of the return obligation on a foreigner who is the spouse of a Polish citizen or a foreigner holding a residence permit or a long-term resident's EU residence permit within the territory of the Republic of Poland, the authorities that conduct the proceedings determine whether the marriage was actually concluded or whether it was concluded in order to circumvent this Act.

2. In order to determine whether a marriage was actually concluded or whether it was concluded in order to circumvent this Act, the provisions of Article 169(2), (4) and (5) shall apply.

Article 327. 1. The body that conducts the proceeding on the issue of the decision on imposing the return obligation shall provide an opportunity for the interpreter's assistance to foreigners who do not have adequate knowledge of the Polish language.

2. The authority that issued the decision on imposing the return obligation on a foreigner shall provide an understandable interpretation or translation of the legal basis of the decision, the ruling and the instruction about whether and how an appeal against their decision may be filed.

Article 328. The authority that conducts the proceedings on the issue of the decision on imposing the return obligation on a foreigner shall inform a foreigner about non-governmental organisations that provide assistance to foreigners, including legal assistance.

Article 329. 1. If a foreigner has not voluntarily left the territory of the Republic of Poland within the period specified in the decision on imposing the return obligation, the decision is subject to forced execution.

2. Except in the case referred to in paragraph 1, forced execution of a decision on imposing the return obligation on a foreigner shall take place when:

- 1) the decision does not specify the deadline for voluntary return, or
- 2) after the issue of the decision:
 - a) there is a likelihood that the foreigner will escape, or
 - b) a stay of the foreigner might pose a threat to national defence or national security or public safety and order.

3. Forced execution of the decision on imposing the return obligation on a foreigner shall consist in bringing a foreigner to the border or to an airport or sea port of the state to which he/she is to be transferred. In order to bring a foreigner from the border to an airport of the country to which he/she is to be transferred, the provisions of Annex to Council Decision 2004/573/EC of 29 April 2004 on the organisation of joint flights for removals from the territory of two or more Member States, of third-country nationals who are subjects of individual removal orders (OJ L 261, 6.8.2004, p. 28, as amended).

4. The transfer of a foreigner shall be carried out:

- 1) to the border – by the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost with jurisdiction for the place of residence of the foreigner;
- 2) from the border to an airport or sea port of the state to which he/she is to be returned – by the Commander-in-Chief of the Polish Border Guard or the commanding officer of a Polish Border Guard unit with jurisdiction for the place where the foreigner crosses the border.

5. The commanding officer of a Polish Border Guard outpost with jurisdiction for the place where the foreigner crosses the border shall record the date of leaving the territory of the Republic of Poland by the foreigner in the registry of cases connected with return obligation.

Article 330. 1. A decision on imposing the return obligation to his/her country of origin shall not be issued to a foreigner if:

- 1) there are pending proceedings involving the foreigner on granting refugee status, or
- 2) there are pending proceedings on granting the foreigner a residence permit for humanitarian reasons, a tolerated stay permit or the permit referred to in Article 176 or Article 181(1), or

- 3) the foreigner has been granted a residence permit for humanitarian reasons or a permit for tolerated stay, or there are reasons to grant him/her such a permit, or
- 4) the foreigner resides within the territory of the Republic of Poland on the basis of:

a Schengen visa that authorises him/her to enter only the territory of the Republic of Poland and that was issued for the purpose referred to in Article 60(1)(23), or

the permit referred to in paragraph 181(1), or

- 5) the foreigner resides within the territory of the Republic of Poland on the basis of a certificate referred to in Article 170, or
- 6) the foreigner is a spouse of a Polish citizen or a foreigner holding a permanent residence permit or a long-term resident's EU residence permit within the territory of the Republic of Poland and it is not in breach of national defence or national security or public safety and order, unless the purpose of marriage or of its existence is to circumvent this Act, or
- 7) a preventive measure in the form of a prohibition to leave the country has been ruled against the foreigner in the Republic of Poland.

2. Provision of Paragraph 1(1) shall not apply if the foreigner has submitted another application for refugee status.

Article 331. 1. If a foreigner has filed a complaint to the county administrative court against the decision on imposing the return obligation along with a request to suspend its execution, the deadline for voluntary return or the deadline for forced execution of this decision by virtue of law shall be extended until the date of issue of a decision on such an application by a voivodeship administrative court.

2. The provision of paragraph 1 shall not apply where the decision on imposing the return obligation has been issued on the basis of Article 302(1)(9).

Article 332. A decision on imposing the return obligation issued to a minor foreigner shall be executed, provided that:

- 1) in the country to which it was obliged to return, the minor foreigner will be provided with care by its parents, other adults or care institutions as defined with the standards set out in the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989;
- 2) the return shall be conducted under the custody of a legal representative, or such a foreigner will be transferred to its legal representative or a representative of competent authorities of the country to which it will be returned.

Article 333. 1. Representatives of non-governmental or international organisations providing assistance to foreigners may be present as observers in the course of activities associated with bringing a foreigner to the border or at an airport or sea port of the state to which he/she is to be transferred, taken in connection with the forced execution of a decision on imposing the return obligation.

2. Costs of bringing no more than two representatives of non-governmental organisations referred to in paragraph 1 to the border or the airport or seaport of the country to which a foreigner is to be transferred shall be borne by the state budget from the part that is administered by the minister

competent for internal affairs, by the funds at the disposal of the Commander-in-Chief of the Polish Border Guard.

3. Travel costs shall be covered in case when at least five foreigners are to be transferred and when the transfer is to be done by a ship or chartered aircraft.

4. Representatives of non-governmental or international organisations referred to in paragraph 1, in the course of activities related to bringing a foreigner to the border or to an airport or sea port of the state to which he/she is to be brought, have the right to:

1) observe the conduct of all activities involving the foreigner from the beginning to the completion of transfer in order to confirm that the dignity and the rights of a foreigner were respected in the course of these operations;

2) communicate with the foreigner that is being transferred, provided that it does not interfere with the activities related to the transfer.

5. Before bringing a foreigner to the border or to an airport or sea port of the state to which he/she is to be brought, a Polish Border Guard officer shall inform the representatives of non-governmental organisations or international referred to in paragraph 1 about the rules applicable during the transfer, in particular the ones concerning the course of the transfer and safety requirements.

6. Representatives of non-governmental or international organisations referred to in paragraph 1 shall be obliged to:

1) comply with the rules in force when bringing a foreigner to the border or to an airport or sea port of the state to which he/she is to be brought;

2) carry out the instructions of Polish Border Guard officers in an event of danger, in particular an attack on the transferring officers or in case of escape attempt taken by a foreigner.

7. The minister competent for internal affairs shall specify by way of an ordinance the following:

1) the manner and date of provision of information to the representatives of non-governmental organisations referred to in paragraph 1 about the forthcoming transfer of a foreigner to the border or to an airport or sea port of the state to which he/she is to be brought and about the manner and date of confirmation of involvement of such representatives in the transfer,

2) the method used by the representatives of non-governmental organisations referred to in paragraph 1 to document the course of transfer of a foreigner to the border or to an airport or sea port of the state to which he/she is to be brought and the date of transmission of the documentation to the Commander-in-Chief of the Polish Border Guard

– while taking into account the need to ensure efficient organisation of a transfer and exchange of information in this regard.

Article 334. 1. An entity whose statutory duties include the organisation of voluntary returns may organise assistance in voluntary return of a foreigner upon his/her request.

2. Assistance in voluntary return may be provided to a foreigner:

- 1) who applies for refugee status and whose application for this status has been disregarded for formal reasons, or
 - 2) for whom a decision has been issued that imposes a return obligation on a foreigner, with the exception of a decision on imposing the return obligation that does not specify a deadline for voluntary return, or with the exception of another case where the decision is subject to forced execution, or
 - 3) who resides within the territory of the Republic of Poland on the basis of a certificate referred to in Article 170 or on the basis of a temporary residence permit referred to in Article 176.
3. Commander-in-Chief of the Polish Border Guard may provide a foreigner with financing of assistance in voluntary return.
4. The entity referred to in paragraph 1 co-operates with the Commander-in-Chief of the Polish Border Guard in the organisation of assistance in voluntary return.
5. Financing of further assistance for voluntary return may take place not earlier than two years from the date on which the foreigner who has been granted the first assistance for voluntary return funded by the Commander-in-Chief of the Polish Border Guard left the territory of the Republic of Poland.
6. The provision of paragraph 5 shall not apply to assistance to a foreigner residing within the territory of the Republic of Poland who is a victim of human trafficking and an unattended minor foreigner residing within the territory of the Republic of Poland.

Article 335. 1. Assistance in voluntary return shall cover:

- 1) travel costs;
 - 2) administrative fees of obtaining a travel document and necessary visas and permits;
 - 3) the costs of food during travel;
 - 4) costs of medical care;
 - 5) costs of organising voluntary return by the entity referred to in Article 334(1);
 - 6) other costs associated with providing safe and humane return for a foreigner.
2. The costs of the provision of medical care shall be covered by the state budget from the part administered by the minister competent for internal affairs, by the funds at the disposal of the Commander-in-Chief of the Polish Border Guard.
3. The authority that issued the decision on imposing the return obligation on a foreigner shall inform the foreigner referred to in Article 334(2) about an opportunity to take advantage of assistance in voluntary return.

Article 336. 1. The costs associated with the issue and execution of a decision on imposing the return obligation on a foreigner shall be determined in the case of a decision on imposing the return obligation on a foreigner that does not specify a deadline for voluntary return or in the case of the forced execution of the decision.

2. A Polish Border Guard authority competent for the forced execution of the decision on imposing the return obligation on a foreigner shall determine, by way of decision, the costs referred to in paragraph 1 and the entities required to cover these costs. The decision shall be immediately enforceable.

3. The amounts payable on the account of costs referred to in paragraph 1 shall expire five years after the end of the calendar year in which the decision to determine the amount of costs has become final.

Article 337. 1. The costs referred to in Article 336(1) shall be borne by a foreigner.

2. The host shall bear the costs referred to in Article 336(1) in case when the foreigner whom he invited entered the territory of the Republic of Poland during the period for which he/she was invited, and the circumstances justifying the return obligation occurred:

- 1) during the stay of a foreigner within this territory during the period covered by the invitation or
- 2) after the period covered by the invitation when the foreigner's visa was not renewed, he/she did not obtain a temporary residence permit, permanent residence permit, residence permit or a long-term resident's EU residence permit, or he/she does not enjoy the protection within the territory of the Republic of Poland referred to in Article 3 of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland, and he/she remained within that territory.

3. An entity that assigned the performance of work or the performance of a specific function shall bear the costs referred to in Article 336(1) where a decision on imposing the return obligation on a foreigner was taken due to the circumstance referred to in Article 302(1)(4).

4. Where a decision on imposing the return obligation on an invited foreigner was taken due to the circumstance referred to in Article 302(1)(4), the costs referred to in Article 336(1) shall be borne by an entity that assigned the performance of work or the performance of a specific function.

5. A research unit that accepted a foreigner in order to conduct a research project shall bear the costs referred to in Article 336(1) if the decision on imposing the return obligation on a foreigner was issued and executed using public funds before the lapse of six months from the date of expiry of the agreement to accept him/her for a research project, and the basis for that decision was the residence of a foreigner within the territory of the Republic of Poland without a valid visa, if required, or any other valid document authorising him/her to enter into that territory and stay within it.

Article 338. The costs referred to in Article 336(1) shall include in particular the costs of:

- 1) the procedure to issue a decision on imposing the return obligation on a foreigner;
- 2) taking the foreigner's fingerprints and photographs;
- 3) the foreigner's stay at a guarded centre or at a detention centre for foreigners;
- 4) foreigner's medical examination;
- 5) assistance granted to a foreigner by the other Member States of the European Union in connection with a transit by air through its territory;

6) transfer of a foreigner to the border or to an airport or sea port of the state to which he/she is to be brought;

Article 339. 1. The minister competent for internal affairs, in consultation with the minister competent for public finance affairs, shall specify, by way of ordinance, the method for calculating the costs of:

1) transfer of a foreigner to the border or to an airport or sea port of the state to which he/she is to be brought;

the foreigner's stay at a guarded centre or at a detention centre for foreigners;

taking the fingerprints of the foreigner and the photographs included in the cost of the forced execution of a decision on imposing the return obligation on a foreigner;

other than those referred to in paragraph 1 and associated with bringing a foreigner to the border or airport or sea port of the state to which he/she is to be brought.

2. In the regulation referred to in paragraph 1, the minister competent for internal affairs shall define the type of transport used for the forced execution of a decision on imposing the return obligation on a foreigner, the number of people to transfer a foreigner to the border or an airport or sea port of the state to which he/she is to be brought, the length of the transfer route, the cost of food and accommodation, the value of the materials used to take the foreigner's fingerprints and the costs of taking photographs.

Article 340. The authority that issued the decision on the amount of the costs referred to in Article 336(1) may change its decision if these costs have changed after the decision was issued. The decision shall be immediately enforceable.

Article 341. A decision on the determination of the amount of the costs referred to in Article 336(1) and the decision amending such a decision may be appealed against at the Commander-in-Chief of the Polish Border Guard.

Article 342. 1. The amounts payable on the account of the costs referred to in Article 336(1), without prejudice to Articles 343-345, shall be subject to enforcement under the regulations of the Act of 17 June 1966 on enforcement proceedings in administration (Dz. U. of 2012, item 1015, as amended²⁷).

2. Enforcement proceedings may be instituted without prior notification.

3. A Polish Border Guard authority that issued a decision on the determination of the amount of the costs referred to in Article 336(1) shall not issue a writ of execution if the premises in the case indicate that execution would be ineffective.

Article 343. 1. Amounts payable on the account of the costs referred to in Article 336(1) may be deducted from the funds of a foreigner held in the escrow of a guarded centre or detention centre for foreigners.

2. Commanding officer of a Polish Border Guard unit or commanding officer of a Polish Border Guard outpost to whom a guarded or detention centre for foreigners referred to in paragraph 1 is subordinated shall determine, within 14 days of receipt of a foreigner at a guarded centre or a

²⁷ Amendments to the consolidated text of the Act were promulgated in Dz.U. of 2012, item 1166, 1342 and 1529 and in Dz.U. of 2013, item 1289.

detention centre for foreigners, a lump sum to cover the amounts payable on the account of the costs referred to in Article 336(1).

3. Lump sum shall be an approximate amount of the costs established by way of a decision referred to in Article 336(2). Lump sum shall be determined subject to the method of calculating the costs, as specified in the regulations issued pursuant to Article 339, and the period of stay in a guarded centre or detention centre for foreigners indicated in the ruling on placing a foreigner in a guarded centre or in a detention centre for foreigners.

4. A Polish Border Guard authority referred to in paragraph 2 shall notify in writing the foreigner of the determined lump sum to cover the amounts payable on the account of the costs referred to in Article 336(1).

5. The funds referred to in paragraph 1 in an amount up to the amount of the determined lump sum shall be stored and shall not be returned until the decision to establish the amount of the costs referred to in Article 336(1) has been determined, or deductions referred to in Article 344(2) have been made.

6. A foreigner shall be left with the funds referred to in paragraph 1 in an amount not less than PLN 500 to meet current needs during a stay in a guarded centre or a detention centre for foreigners.

Article 344. 1. Deductions of payable amounts on the account of the cost referred to in Article 336(1) shall be made by a Polish Border Guard body that issued the decision on the determination of the amount of these costs.

2. Deductions shall be made on the date on which the decision on determining the amount of the costs referred to in Article 336(1) has become final and binding.

3. The deduction shall be made by way of a ruling that may be appealed against to the Commander-in-Chief of the Polish Border Guard.

4. In the case of deposit of cash in a foreign currency, the amounts payable determined according to the currency exchange rate announced by the President of the Polish National Bank on the date of issue of the ruling referred to in paragraph 3 shall be deducted.

Article 345. 1. Amounts payable on the account of the costs referred to in Article 336(1) may also be deducted from the cash collateral referred to in Article 398(3)(2). Provision of Article 344 shall apply to the deduction.

2. Cash collateral up to the amount of the costs determined in the decision referred to in Article 336(2) shall not be refundable if a foreigner has failed to pay the fees due for these costs by the date of execution of the decision on imposing the return obligation.

Article 346. 1. If a foreigner has not paid the fee for the costs set out in the decision referred to in Article 336(2) and the deduction thereof from the foreigner's funds referred to in Article 343(1) is not possible, or the amount of such funds is less than the determined costs in a decision, the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost to whom a guarded centre or detention centre for foreigners in which the foreigner resides is subordinated shall issue an ruling for a security on property, indicating foreigner's assets are covered by the security.

2. The decision referred to in paragraph 1 may be appealed against at the Commander-in-Chief of the Polish Border Guard.

3. The provision referred to in paragraph 1 shall be enforced in accordance with the provisions of the Act of 17 June 1966 on enforcement proceedings in administration.

4. The provision of paragraph 1 shall not apply if a foreigner does not have the assets to be covered by a security.

Article 347. 1. The costs referred to in Article 336(1) shall be covered by the state budget from the part administered by the minister competent for internal affairs, by the funds at the disposal of the Commander-in-Chief of the Polish Border Guard in case:

- 1) failure to pay the amounts payable on the account of these costs by the entity obliged to do so;
- 2) when it is not possible to deduct the funds referred to in Article 343(1);
- 3) when it is not possible to recover the amounts payable in enforcement proceedings.

2. The proceeds obtained from the payable amounts on the account of the costs referred to in Article 336(1) shall represent income of the state budget.

Chapter 3

Residence permit for humanitarian reasons and permit for tolerated stay

Article 348. A foreigner shall be granted a permit for tolerated stay within the territory of the Republic of Poland, if a return obligation for him/her:

- 1) can be made solely to the state in which within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950:
 - a) his/her right to life, freedom and personal security might be threatened, or
 - b) he/she could be subject to torture or inhumane or degrading treatment or punishment, or
 - c) he/she could be subject to forced labour, or
 - d) he/she could be deprived of the right to fair trial or be punished without a legal basis, or
- 2) would violate his/her right to family 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, or
- 3) would violate the rights of the child, as defined in the Convention on the Rights of the Child, adopted by the General Assembly of the United Nations on 20 November 1989, in a manner which may represent a serious threat to his/her psychophysical development.

Article 349. 1. A foreigner shall not be granted a residence permit for humanitarian reasons if there are substantial grounds to believe that:

- 1) he/she has committed a crime against peace, a war crime or a crime against humanity within the meaning of the international law, or

2) 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

3) 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

4) represents a threat to national security or defence, the protection of public order and safety, or instigated, or

5) he/she has instigated or otherwise participated in the commission of crimes or offenses referred to in Paragraph 1(3).

2. A foreigner who, before the arrival in the territory of the Republic of Poland, has committed an act other than the ones specified in subparagraphs 1-3 that is an offense under the Polish law and is punishable by imprisonment, may be denied subsidiary protection if he/she left the country of origin solely in order to avoid punishment.

Article 350. 1. A foreigner's residence permit for humanitarian reasons shall be revoked if:

1) the circumstances due to which it was given ceased to exist or changed in such a way that protection is no longer required, or

2) the circumstances that justified the rejection to grant the permit emerged after it was granted, or

3) it turns out that he/she withheld information or documents or provided false information or documents that are relevant to granting subsidiary protection, or

4) the foreigner permanently left the territory of the Republic of Poland, or

5) the foreigner returned to the country of origin.

2. A foreigner's residence permit for humanitarian reasons protection may be revoked if, after granting it, the circumstances referred to in Article 349(2) come to light.

Article 351. A foreigner shall be granted a permit for tolerated stay within the territory of the Republic of Poland if a return obligation for him/her:

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:

a) his/her right to life, freedom and personal security might be threatened, or

b) he/she could be subject to torture or inhumane or degrading treatment or punishment, or

c) he/she could be subject to forced labour, or

d) he/she could be deprived of the right to fair trial or be punished without a legal basis, or

- in case when there are circumstances to deny him/her the residence permit for humanitarian reasons referred to in Article 349, or

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

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.

Article 352. A permit for tolerated stay for a foreigner shall be denied in the cases referred to in Article 351(2)(3) if his/her stay within the territory of the Republic of Poland may pose a threat to national security or defence, the protection of public order and safety.

Article 353. A permit for tolerated stay shall be revoked by way of decision if:

- 1) the reason for granting the consent ceased to exist, or
- 2) the foreigner has left the territory of the Republic of Poland, or
- 3) further stay of a foreigner might pose a threat to national defence or national security or public safety and order – in case of a permit for tolerated stay granted under Article 351(2) or (3), or
- 4) the foreigner evades the duties imposed on him/her in a decision on granting the permit, as referred to in Article 358 – in the case of a permit for tolerated stay granted pursuant to Article 351(2) or (3).

Article 354. 1. A decision on granting a residence permit for humanitarian reasons for a foreigner or a permit for tolerated stay shall expire by virtue of law on the day:

- 1) when the foreigner has been granted refugee status or subsidiary protection, or
- 2) when he/she has acquired Polish citizenship, or
- 3) when he/she has sent a written notice to the authority of the Polish Border Guard about the waiver of the right to use a residence permit for humanitarian reasons or a permit tolerated stay respectively, or
- 4) when he/she has obtained a permanent residence permit.

2. A decision on granting a permit for tolerated for a foreigner stay shall expire by virtue of law on the day when he/she has been granted a residence permit for humanitarian reasons.

Article 355. 1. In the cases referred to in Article 348 and Article 351, the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost shall be the competent authorities.

2. The Head of the Office shall be a higher-level authority, within the meaning of the Administrative Code, in relation to the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost in the matters referred to in paragraph 1.

Article 356. 1. Should the circumstance referred to in Article 348 or Article 351 come to light during the proceedings on imposing the return obligation on a foreigner, the decision concluding such proceedings shall adjudicate on the matter of granting a residence permit for humanitarian reasons, and in case of failure to grant it – on the matter of granting a permit for tolerated stay.

2. Should a circumstance referred to in Article 348 or Article 351(1) or (2) come to light:

- 1) after the issue of a decision on imposing the return obligation by a superior authority, or

2) because of the necessity to execute a decision on imposing the return obligation issued by an authority of another Member State applying the Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals (OJ L 149, 2.6.2001, p. 34; Special Polish Edition, Chapter 19 Volume 4 p. 107),

– separate proceedings shall be instituted ex officio.

3. The provision of paragraph 1 shall apply accordingly to the procedure concluding the proceedings on imposing the return obligation, as defined in paragraph 2.

4. In the case referred to in Article 351(3), a permit for tolerated stay shall be granted at the request of a foreigner.

5. In the case referred to in paragraph 2, the authority competent to institute the proceedings for granting a residence permit for humanitarian reasons or a permit for tolerated stay shall be the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost that issued the decision on imposing the return obligation on a foreigner.

Article 357. 1. In the matters pertaining to the withdrawal of the foreigner's residence permit for humanitarian reasons or permit for tolerated stay, the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost that granted the permit shall be the competent body, and if permit was granted by the Head of the Office, it shall be the Polish Border Guard authority with jurisdiction over the place of residence of the foreigner.

2. The proceedings referred to in paragraph 1 shall be instituted ex officio. Where the stay of a foreigner may pose a threat to national defence or national security or the protection of public safety and order, a request for initiation of proceedings may be lodged by a voivodeship Police commander or the Head of the Internal Security Agency.

3. The Head of the Office shall be a higher-level authority, within the meaning of the Administrative Code, in relation to the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost in the matters referred to in paragraph 1 and 2.

Article 358. A decision to grant a permit for tolerated stay to a foreigner shall commit a foreigner to report at specified intervals to the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost indicated in the decision or to the one that has jurisdiction over the place of current residence of the foreigner and to inform him/her about any changes in his/her place of residence.

Article 359. 1. Before issuing the decision on granting a residence permit for humanitarian reasons, the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost shall request the voivodeship Police commander and the Chief of the Internal Security Agency, and if necessary also other bodies, to provide information whether the conditions referred to in Article 349 have been met.

2. >Before issuing the decision on granting a residence permit for humanitarian reasons, the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost shall request the voivodeship Police commander and the Chief of the Internal Security Agency, and if necessary also other bodies, to provide information whether the foreigner's stay within

the territory of the Republic of Poland may pose a threat to national defence or national security or to the protection of public safety and order.

3. The voivodeship Police commander and the Head of the Internal Security Agency shall provide the information referred to in Paragraph 1 and 2 within 30 days of the receipt of the request to submit it.

4. In particularly justified cases, the deadline for providing the information referred to in paragraph 1 or 2 may be extended to 60 working days, and the authority obliged to provide the information shall notify the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost about it.

5. If the authority obliged to provide the information referred to in paragraph 1 or 2 fails to pass it within the deadline specified in paragraph 3 or 4, it shall be recognised that the requirement to obtain information has been met.

6. The provision of paragraph 1 or 2 shall not apply in proceedings for the issue of a decision on granting a residence permit for humanitarian reasons or a permit tolerated for stay permit to a foreigner who has not reached the age of 13 years old.

Chapter 4

Transit of a foreigner by air

Article 360. Transit by air may be carried out after obtaining a permission for such a means of transit, issued by a central authority of another Member State of the European Union, unless otherwise stipulated in international agreements.

Article 361. In the case when a central authority of another Member State of the European Union has not authorised the transit in response to a request made pursuant to Article 365. 2:

1) within 2 days of the submission of a request to a central authority of another Member State of the European Union or

2) within 48 hours of the deadline referred to in paragraph 1 if the deadline to process the request has been extended by the central authority of another Member State of the European Union,

– transit may begin upon notification to the Commander-in-Chief of the Polish Border Guard.

Article 362. The proceedings on the award of authorisation by a central authority of another European Union Member State for transit of a foreigner by air through the airport zone of such a state shall be instituted in order to implement a decision on imposing the return obligation on a foreigner, where bringing him/her to the airport of the country of destination is not possible using a direct air link from the territory of the Republic of Poland.

Article 363. In justified cases, a request for a permission for transit by air may be extended to additionally cover the persons responsible for a foreigner during his/her transit, including those providing medical care for him/her and interpreters, hereinafter referred to as the “escort”.

Article 364. A foreigner who has left the territory of the Republic of Poland in connection with the performance of transit by air shall be granted a permit to re-enter that territory in case when:

- 1) the central authority of another Member State of the European Union withdrew the permission for transit by air or
- 2) the central authority of another Member State of the European Union refused to grant a permission for transit by air, and the transit began on the basis of the notification of the Commander-in-Chief of the Polish Border Guard, or
- 3) during the transit by air, a foreigner, without a permission, entered the territory of a European Union Member State within whose territory there is the airport through which the transit is to be carried out, or
- 4) forced execution of a decision on imposing the return obligation or the foreigner's boarding an aircraft proved to be ineffective, or
- 5) the performance of the transit is impossible for any other reason.

Art. 365. 1. The procedure referred to in Article 362 shall be instituted upon the request of the Commander-in-Chief of the Polish Border Guard.

2. The request referred to in paragraph 1 shall be submitted to a central authority of another Member State of the European Union.

3. The request referred to in paragraph 1 shall contain the data of a foreigner or the information referred to in Article 13.

4. The minister competent for internal affairs shall specify, by way of regulation, the template of the request form referred to in paragraph 1, taking into account the need to ensure proper and efficient conduct of transit by air and the need to comply with security requirements while bringing a foreigner to the airport of the country of destination.

Article 366. 1. Commander-in-Chief of the Polish Border Guard shall submit a request for a permission for transit by air to the central authority of another Member State of the European Union at least 48 hours before such transit.

2. The provision of paragraph 1 shall not apply in exceptionally urgent cases.

Article 367. 1. The Commander-in-Chief of the Polish Border Guard shall make arrangements with the central authority of another Member State of the European Union on the scope of assistance provided by that authority during the transit by air and on the manner of conducting such a transit. The transit by air shall be carried out in no more than 24 hours.

2. If the transit by air cannot be completed within the deadline referred to in paragraph 1, the Commander-in-Chief of the Polish Border Guard may make arrangements with the central authority of another Member State of the European Union on the extension of that deadline by further 48 hours.

Article 368. 1. The state budget shall cover the cost of:

- 1) re-entry of a foreigner into the territory of the Republic of Poland;
- 2) assistance provided to a foreigner by the other Member States of the European Union in connection with a transit by air through its territory.

2. The costs referred to in paragraph 1 shall be covered by the state budget from the part that is administered by the minister competent for internal affairs from the funds at the disposal of the Commander-in-Chief of the Polish Border Guard.

Article 369. If the execution of a decision on imposing the return obligation on a foreigner from the territory of another Member State of the European Union is not possible by means of a direct air connection to the country of destination, the Commander-in-Chief of the Polish Border Guard, at the request of the central authority of a Member State of the European Union, shall authorise the transit of a foreigner by air through the zones of the Polish airports in order to implement the decision.

Article 370. 1. Commander-in-Chief of the Polish Border Guard may refuse to grant permission for transit by air if:

- 1) a foreigner is accused in the Republic of Poland of a crime or is wanted for the execution of a judgment, or
- 2) the foreigner's transit through the territory of other states or the foreigner's receipt by the state to which the foreigner is to be returned, is impossible, or
- 3) execution of the decision on imposing the return obligation on a foreigner requires a change of the airport within the territory of the Republic of Poland, or
- 4) it is justified by national security or defence or by the protection of public order and safety, or it is necessary because of international relations of the other European Union Member State, or
- 5) provide assistance to another Member State of the European Union in carrying out a transit is impossible.

2. Commander-in-Chief of the Polish Border Guard may revoke a permission for transit by air if thereupon, circumstances are revealed which are referred to in paragraph 1.

Article 371. The provisions of the Code of Administrative Proceedings and the provisions of the Act of 30 August 2002 – Law on proceedings before administrative courts (Dz.U. of 2012, item 270, 1101 and 1529) shall not apply to transit of a foreigner by air through the territory of the Republic of Poland.

Article 372. In the course of transit by air, officers of another European Union Member State who belong to the escort, in the case of:

- 1) risk of indirect and unlawful attack on the life, health or freedom of an officer,
- 2) immediate and serious threat that the foreigner will attempt to escape, injure himself/herself or others or destroy property in a situation where there are no Polish Border Guard officers or the Police, or in order to support them

– shall be authorised to wear the coercive means referred to in Article 12(1)(2), (7), subparagraph 12(a) and (d) and subparagraph 13 of the Act of 24 May 2013 on measures of direct coercion and firearms (Dz.U. item 628 and 1165) and to use coercive means referred to in Article 12(1)(1), (2), (7), subparagraph 12(a) and (d) and subparagraph 13 of this Act, in compliance with the rules on Polish Border Guard officers.

Article 373. 1. The Commander-in-Chief of the Polish Border Guard shall notify the central authority of another Member State of the European Union of granting or refusing to grant a permission for transit by air within 48 hours of receipt of the request referred to in Article 369.

2. In justified cases, the period referred to in paragraph 1 may be extended for further 48 hours.

Article 374. Commander-in-Chief of the Polish Border Guard shall notify the central authority of another Member State of the European Union of:

- 1) refusal to grant permission for transit by air or revocation of such a permission;
- 2) the earliest date on which transit by air will be possible – in case of refusal to authorise the transit by air or withdrawal thereof due to inability to provide assistance to another Member State of the European Union in carrying out the transit.

Article 375. Commander-in-Chief of the Polish Border Guard, at the request of the central authority of another Member State of the European Union, may assist in transit by air through the zone of a Polish airport, involving in particular:

- taking a foreigner from the board of an aircraft and escorting him/her to airport area, or
- provision of a foreigner and his/her escort with the necessary medical care and nutrition, or
- receipt, storage and transfer of foreigner's travel documents, or
- notification of the central authority of another Member State of the European Union of the place and time of departure of a foreigner if the transit is carried out without an escort, or
- provision of the central authority of another Member State of the European Union with relevant information regarding the conduct of transit, or
- provision of accommodation for a foreigner for the time of transit, or
- counteracting attempts to prevent transit taken by the foreigner.

Article 376. 1. Commander-in-Chief of the Polish Border Guard, at the request of the central authority of another Member State of the European Union, may provide assistance in the transit zone of an airport in case when:

- 1) the permission for transit by air granted to the central authority of another Member State of the European Union has been withdrawn, or
- 2) the central authority of another Member State of the European Union was not granted a permission for transit by air, and the transit began on the basis of the notification of the central authority of the Member State of the European Union, or
- 3) during the transit by air, a foreigner entered the territory of the Republic of Poland without a permit, or
- 4) forced execution of a decision on imposing the return obligation or the foreigner's boarding an aircraft proved to be ineffective, or
- 5) the performance of the transit is impossible for any other reason.

2. The aid referred to in paragraph 1 shall comprise in particular:

- 1) provision of a foreigner and his/her escort with the necessary medical care and nutrition, or
- 2) provision of accommodation for a foreigner, or
- 3) storage and transfer of foreigner's travel documents, or
- 4) counteracting the foreigner's escape attempts.

Article 377. In the course of transit by air through the zone of a Polish airport, officers of another European Union Member State who belong to the escort:

- 1) are authorised to carry out transit by air or a notification;
- 2) have his/her official identity card;
- 3) wear civilian dress;
- 4) are unarmed.

Article 378. After completion of the transit by air through the zone of a Polish airport, the Commander-in-Chief of the Polish Border Guard shall request the central authority of another Member State of the European Union to cover the cost of the provided assistance.

Article 379. The Commander-in-Chief of the Polish Border Guard shall designate points of contact with which the officers of another Member State of the European Union may cooperate in the exchange of information on the conduct of the transit in the course of the transit by air.

Chapter 5

Execution of the decision on imposing the return obligation on a foreigner issued by an authority of another Member State of the European Union

Article 380. The final decision on imposing the return obligation issued by an authority of another Member State applying the Council Directive 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals, hereinafter referred to as the "issuing Member State", shall be executed by Polish Border Guard authorities obliged to execute it because of:

- 1) serious and current threat to public order or national security of the issuing Member State in the following cases:
 - a) conviction of a foreigner by such a state for an offence punishable by a penalty involving deprivation of liberty of at least one year, or
 - b) reasonable suspicion of a offence committed by a foreigner or a foreigner's intention to commit an offence punishable by at least one year imprisonment within the territory of the issuing Member State, or
- 2) violation of legal regulations of the issuing Member State governing the entry of foreigners into its territory or their stay within that territory.

Article 381. Execution of a decision on imposing the return obligation on a foreigner issued by an authority of the issuing Member State shall invalidate a national visa or local border traffic permit by virtue of law and the expiry of a work permit by virtue of law.

Article 382. Article 332 shall apply to a decision on imposing the return obligation on a foreigner issued by authority of the issuing Member State to a minor foreigner.

Article 383. If the decision on imposing the return obligation on a foreigner issued by authority of the issuing Member State applies to a foreigner holding a temporary residence permit, a permanent residence permit or a long-term resident's EU residence permit, the Commander-in-Chief of the Polish Border Guard shall request a voivode competent for the place of residence of the foreigner to determine whether there are reasons to revoke such a permit.

Article 384. The Commander-in-Chief of the Polish Border Guard shall carry out – through the medium of the SIRENE Bureau, referred to in Article 35 of the Act of 24 August 2007 on the participation of the Republic of Poland in the Schengen Information System and Visa Information System, or by means of other available means of co-operation and exchange of information – consultations with a competent authority of:

- 1) the issuing Member State – in order to confirm that the decision on imposing the return obligation on a foreigner is still enforceable;
- 2) the European Union Member State that has granted a residence permit to a foreigner obliged to return – in order to determine whether there are grounds for revocation of the permit granted to such a foreigner.

Article 385. Articles 360-379 and Articles 394-427 shall apply to a decision on imposing the return obligation on a foreigner issued by authority of the issuing Member State.

Article 386. The decision on imposing the return obligation on a foreigner issued by authority of the issuing Member State shall not be executed if:

- 1) there are pending proceedings involving the foreigner on granting refugee status, or
- 2) there are pending proceedings on granting the foreigner a permit for tolerated stay or the permit referred to in Article 176, Article 181(1) or Article 187(6)(7), or
- 3) the foreigner resides within the territory of the Republic of Poland on the basis of:
 - a) a Schengen visa that authorises him/her to enter only the territory of the Republic of Poland and that was issued for the purpose referred to in Article 60(1)(23), or
 - b) a certificate referred to in paragraph 170, or
- 4) a foreigner was granted a temporary residence permit, a permanent residence permit or a long-term resident's EU residence permit, he/she was granted refugee status or subsidiary protection, a residence permit for humanitarian reasons or a permit for tolerated stay, or
- 5) he/she is a spouse of a Polish citizen or a foreigner holding a permanent residence permit or a long-term resident's EU residence permit within the territory of the Republic of Poland and it is not in breach of national defence or national security or public safety and order, unless the purpose of marriage or of its existence is to circumvent this Act, or

- 6) the foreigner has been imprisoned as a result of the execution of a court ruling, or a preventive measure has been applied to him/her in the form of a ban on leaving the country, or
- 7) the competent authority of the issuing Member State:
 - a) has not provided the documents necessary to confirm that the decision on imposing the return obligation on a foreigner is still enforceable, or
 - b) has not confirmed the readiness to reimburse the costs of executing the decision on imposing the return obligation on a foreigner.

Article 387. A decision on imposing the return obligation on a foreigner issued by the authorities of the issuing Member State to a foreigner or the foreigner's family members who have a work permit for the territory of the Republic of Poland according to the principles laid down in Decision No 1/ 80 of the Association Council of the Republic of Turkey and the EEC of 19 September 1980 on the development of the Association, where the Council was established under the Agreement establishing an Association between the European Economic Community and Turkey, signed in Ankara on 12 September 1963 may be executed only if all conditions have been met for the expulsion of a foreigner from the territory of the Republic of Poland specified in provisions of Chapter 5 of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families.

Article 388. A decision on imposing the return obligation on a foreigner issued by an authority of the issuing Member State shall be subject to forced execution by bringing a foreigner to the border or to an airport or sea port of the state to which he/she is to be transferred.

Article 389. 1. A foreigner shall be transferred:

- 1) to the border – by the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost with jurisdiction for the place of residence of the foreigner;
- 2) from the border to an airport or sea port of the state to which he/she is to be returned – by the Commander-in-Chief of the Polish Border Guard or the commanding officer of a Polish Border Guard unit with jurisdiction for the place where the foreigner will cross the border.

2. The Commander-in-Chief of the Polish Border Guard shall inform the issuing Member State that the foreigner referred to in paragraph 1 has left the territory of the Republic of Poland.

Article 390. Commanding officer of a Polish Border Guard outpost shall inform the issuing Member State that a foreigner has left the territory of the Republic of Poland.

Article 391. 1. The cost of executing a decision on imposing the return obligation on a foreigner issued by authority of the issuing Member State shall be covered by the foreigner:

- 2. If a foreigner fails to pay the amounts payable on the account of the costs referred to in paragraph 1, the Commander-in-Chief of the Polish Border Guard shall request the authority of the issuing Member State to reimburse such costs.
- 3. Until the payment has been made by the foreigner for the amounts payable for the costs referred to in paragraph 1 or they have been reimbursed by the issuing Member State, these costs shall be

covered by the state budget from the part that is administered by the minister competent for internal affairs by the means at the disposal of the Commander-in-Chief of the Polish Border Guard.

4. The costs of executing a decision on imposing the return obligation on a foreigner issued by the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost and incurred by the authorities of another Member State of the European Union shall be covered by the state budget from the part that is administered by the minister competent for internal affairs from the means at the disposal of the Commander-in-Chief of the Polish Border Guard.

Article 392. The provisions of Council Decision of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third country nationals (OJ L 60 of 27.2.2004, p. 55; OJ Polish Special Edition, Chapter 1, Vol. 5, p. 25) shall apply to a request for reimbursement of the costs referred to in Article 391(1) and to the reimbursement thereof when they have been incurred by the authorities of another Member State of the European Union.

Article 393. 1. The Commander-in-Chief of the Polish Border Guard shall perform the function of a national point of contact of a European Union Member State pursuant to Article 3(4) of Council Decision of 23 February 2004 setting out the criteria and practical arrangements for the compensation of the financial imbalances resulting from the application of Council Directive 2001/40/EC on the mutual recognition of decisions on the expulsion of third country nationals.

2. The Commander-in-Chief of the Polish Border Guard who performs the function referred to in paragraph 1, shall in particular:

- 1) make arrangements on the amount of costs of executing a decision on imposing the return obligation on a foreigner issued by the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost and on the method for the reimbursement thereof.
- 2) submit the documents to the competent authorities of the Member State of the European Union that are to implement the decision on imposing the return obligation on a foreigner issued by the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost, proving that this decision is still enforceable;
- 3) inform the competent authorities of a Member State of the European Union that are to implement the decision on imposing the return obligation on a foreigner issued by another Member State whether there are grounds for revocation of a temporary residence permit, a permanent residence permit or a long-term resident's EU residence permit in case of the foreigner to whom such a decision will apply.

SECTION IX

Detention of a foreigner and guarded centres and detention centres for foreigners

Chapter 1

Proceedings on detention of foreigners, placing him/her in a guarded centre or in a detention centre for foreigners

Article 394. 1. A foreigner in the case of whom there are circumstances that justify issuing a decision on imposing the return obligation on him/her or a foreigner who fails to comply with the obligations set out in such a decision or fails to comply with the obligations laid down in a ruling on the use of the measures referred to in Article 398(3) may be detained for a period not longer than 48 hours.

2. Detention of a foreigner shall be carried out by the Polish Border Guard or the Police.
3. The entity referred to in paragraph 2 shall promptly take the fingerprints of a foreigner and shall submit the data referred to in Article 430(6) to the Commander-in-Chief of the Police.
4. After the foreigner's detention:
 - 1) the Police shall immediately put him/her at the disposal of a Polish Border Guard authority that is competent for the place of his/her detention and also requests that a decision on imposing the return obligation be imposed on him/her;
 - 2) the Polish Border Guard depending on the circumstances:
 - a) issues a ruling on implementing the measures referred to in Article 398(3) to a foreigner, or
 - b) requests a court of law to place a foreigner in a guarded centre or in a detention centre for foreigners, or
 - c) requests a voivode to issue a decision on the revocation of a permanent residence permit or a long term resident's EU residence permit, or

A detained foreigner shall be released:

- 1) if, within 48 hours of detention, he/she has not been put at disposal for a court of law, and at the same time no request has been made to put him/her in a guarded centre or in a detention centre for foreigners, or
 - 2) if, within 24 hours of putting at disposal for a court of law, no ruling to put him/her in a guarded centre or in a detention centre for foreigners has been delivered to him/her, or
 - 3) upon order by a court of law, or
 - 4) if the reasons for detention has ceased to exist.
6. The minister competent for internal affairs shall determine, by way of ordinance, a model fingerprint card for taking fingerprints of a foreigner pursuant to paragraph 3 and Article 35(2) and Article 324(1), taking into account the cause of fingerprinting and the necessity to assure an efficient fingerprinting method respecting the foreigner's privacy.

Article 395. 1. Any matters pertaining to foreigner's detention and not provided for herein shall be governed by the provisions of the Act of 6 June 1997 – the Code of Criminal Procedure (Dz. U. No. 89, item 555, as amended²⁸), hereinafter referred to as “the Code of Criminal Procedure”.

2. The provision of Article 248 § 3 of the Code of Criminal Procedure shall not apply to the detention of a foreigner if he/she evades his/her obligations specified in a decision on imposing the return obligation on him/her, and when one of the conditions for the forced execution of the decision referred to in Article 329(1) or (2) emerged.

Article 396. 1. In the event of obstacles preventing a foreigner from being brought into a detention centre for foreigners or preventing his/her reception therein, a foreigner may be placed in a separate room or the Polish Border Guard or the Police intended for detainees until the obstacles have been removed.

2. The provisions of Chapter 2 shall apply to a foreigner placed in the room referred to in paragraph 1 in the extent that they relate to the stay in a detention centre for foreigners.

Article 397. 1. In the case of detention of a minor foreigner staying within the territory of the Republic of Poland unattended:

1) The Police shall immediately put a minor foreigner at the disposal of a Polish Border Guard authority that is competent for the place of his/her detention;

2) the Polish Border Guard shall request a court of law with jurisdiction over the place of detention of a minor foreigner to place it in a care and education centre or in a guarded centre.

2. When examining the request to place a minor foreigner staying in the territory of the Republic of Poland unattended in a guarded centre, a court of law, guided by his/her wellbeing, shall take into account in particular the following:

1) the degree of physical and mental development of a minor foreigner;

2) a minor foreigner's personality traits;

3) the circumstances of the detention of a minor foreigner;

²⁸ Amendments to the above-mentioned Act were promulgated in Dz.U. of 1999, No. 83, item 931, Dz.U. of 2000, No. 50, item 580, No. 62, item 717, No. 73, item 852 and No. 93, item 1027, Dz.U. of 2001, No. 98, item 1071 and No. 106, item 1149, Dz.U. of 2002, No. 74, item 676, Dz.U. of 2003, No. 17, item 155, No. 111, item 1061 and No. 130, item 1188, Dz.U. of 2004, No. 51, item 514, No. 69, item 626, No. 93, item 889, No. 240, item 2405 and No. 264, item 2641, Dz.U. of 2005, No. 10, item 70, No. 48, item 461, No. 77, item 680, No. 96, item 821, No. 141, item 1181, No. 143, item 1203, No. 163, item 1363, No. 169, item 1416 and No. 178, item 1479, Dz.U. of 2006, No. 15, item 118, No. 66, item 467, No. 95, item 659, No. 104, item 708 and 711, No. 141, item 1009 and 1013, No. 167, item 1192 and No. 226, item 1647 and 1648, Dz.U. of 2007, No. 20, item 116, No. 64, item 432, No. 80, item 539, No. 89, item 589, No. 99, item 664, No. 112, item 766, No. 123, item 849 and No. 128, item 903, Dz.U. of 2008, No. 27, item 162, No. 100, item 648, No. 107, item 686, No. 123, item 802, No. 182, item 1133, No. 208, item 1308, No. 214, item 1344, No. 225, item 1485, No. 234, item 1571 and No. 237, item 1651, Dz.U. of 2009, No. 8, item 39, No. 20, item 104, No. 28, item 171, No. 68, item 585, No. 85, item 716, No. 127, item 1051, No. 144, item 1178, No. 168, item 1323, No. 178, item 1375, No. 190, item 1474 and No. 206, item 1589, Dz.U. of 2010, No. 7, item 46, No. 98, item 626, No. 106, item 669, No. 122, item 826, No. 125, item 842, No. 182, item 1228 and No. 197, item 1307, Dz.U. of 2011, No. 48, item 245 and 246, No. 53, item 273, No. 112, item 654, No. 117, item 678, No. 142, item 829, No. 191, item 1135, No. 217, item 1280, No. 240, item 1430, 1431 and 1438 and No. 279, item 1645, Dz.U. of 2012, item 886, 1091, 1101, 1327, 1426, 1447 and 1529 and Dz.U. of 2013, item 480, 765, 849, 1247, 1262 and 1282.

- 4) personal conditions in favour of placing a minor foreigner in a guarded centre.
3. A minor foreigner residing within the territory of the Republic of Poland unattended may be placed in a guarded facility, provided that it has reached the age of 15 years old.
4. In case of doubt about the age of a foreigner to be received in a guarded centre or a detention centre for foreigners who claim to be a minor, he/she shall undergo, with his/her consent or the consent of his/her legal representative, a medical examination in order to determine the actual age of the foreigner. The results of medical examinations should include the margin of error.
5. A foreigner who claims to be a minor and refuses to undergo a medical examination shall be considered an adult.
6. The costs associated with placing in and stay at a care and education centre for a minor foreigner shall be covered by the state budget from the part that is administered by the minister competent for internal affairs from the funds at the disposal of the Commander-in-Chief of the Polish Border Guard or the Commander-in-Chief of the Police.

Article 398. 1. A foreigner shall be placed in a guarded facility if:

- 1) there is a probability that a decision on imposing the return obligation on a foreigner will be issued without a specified period for voluntary return, or
- 2) a decision on imposing the return obligation on a foreigner has been issued without a specified period for voluntary return, or
- 3) a foreigner has not voluntarily left the territory of the Republic of Poland within the period specified in the decision on imposing the return obligation, and immediate forced execution of the decision is not possible, or
- 4) a foreigner fails to meet the obligations set out in the ruling on use of the measures referred to in paragraph 3.

2. A foreigner referred to in paragraph 1:

- 1) subparagraph 1 and 2 if there is a probability that a decision on imposing the return obligation on a foreigner will be issued without a specified period for voluntary return, or if the issue of such a decision results from the circumstance referred to in Article 315(2)(1),

2) subparagraph 3

– may be not placed in a guarded centre.

3. In the case referred to in paragraph 2, a foreigner shall be obliged to:

- 1) report at specified intervals to the Polish Border Guard authority indicated in the ruling,
- 2) lodge a security deposit specified in the ruling, no lower than twice the amount of the minimum wage stipulated by minimum wage law,
- 3) surrender his/her travel document for custody to the body indicated in the ruling,
- 4) reside at the place indicated in the ruling

– until a decision on imposing the return obligation has been executed.

4. A ruling on the use of the measures referred to in paragraph 3 shall be issued by a Polish Border Guard authority that ascertained the circumstances referred to in paragraph 1(1) or (3) or issued the decision referred to in paragraph 1(2). The ruling may be appealed against to the relevant district court with jurisdiction over the seat of Polish Border Guard authority that issued the ruling within 7 days of receipt of the ruling. The court shall examine the appeal within 7 days.

5. The ruling referred to in paragraph 4 may allow for one or more measures referred to in paragraph 3.

6. The ruling on the use of the measures referred to in paragraph 3 shall be subject to immediate execution.

Article 399. 1. Detention for foreigners shall apply in the cases referred to in Article 398(1) when there is a risk that the foreigner will not comply with the rules in force in a guarded centre.

2. Detention for foreigners shall be carried out in the premises of the guarded centres or in the premises of the Polish Border Guard intended for detainees.

Article 400. A ruling on detention of foreigners in a guarded centre or in a detention centre for foreigners shall not be issued if:

- 1) it could pose threat to the life or health of a foreigner;
- 2) the foreigner's physical and psychological condition could justify a presumption that a foreigner has experienced violence.

Article 401. 1. A court of law, having heard a foreigner, shall issue a ruling to place him/her in a guarded centre or in a detention centre for foreigners.

2. The ruling referred to in paragraph 1 shall be issued upon the request of a Polish Border Guard body by a district court with jurisdiction over the place of stay of a foreigner.

3. A request to place a foreigner in a guarded centre or in a detention centre for foreigners shall include:

- 1) name(s), surname, sex and names of the foreigner's parents;
- 2) the date, place and country of birth of a foreigner;
- 3) the foreigner's citizenship of a foreigner;
- 4) the current place of residence of a foreigner within the territory of the Republic of Poland;
- 5) permanent place of residence abroad;
- 6) the legal basis for the request;
- 7) an indication of the period for which a foreigner is to be placed in a guarded centre or in a detention centre for foreigners;
- 8) justification.

4. When examining a request to place a foreigner in a guarded centre, along with a minor foreigner under his/her custody, a court of law shall be guided by the wellbeing of a minor.

5. When examining a request to place a foreigner in a guarded centre, a court of law shall evaluate the possibility of the imposition of the measures referred to in Article 398(3) on him/her.

6. The court shall issue a ruling on implementing the measures referred to in Article 398(3). The ruling may be appealed against to the district court within 7 days from receipt of the ruling. The court shall examine the appeal within 7 days.

7. The minister competent for internal affairs shall specify, by way of an ordinance, the following model requests:

- 1) a request to place a foreigner in a guarded centre or in a detention centre for foreigners,
- 2) a request for extension of the foreigner's stay in a guarded centre or in a detention centre for foreigners,

– while taking into consideration the need to ensure an efficient conduct of the proceedings on the placement of a foreigner in a guarded centre or in a detention centre for foreigners and on the extension of the foreigner's period of stay in a guarded centre or in a detention centre for foreigners.

Article 402. 1. When issuing a decision on placing a foreigner in a guarded centre or in a detention centre for foreigners, a court of law shall take the necessary steps aimed at protecting the foreigner's property and shall notify the following of the issued the ruling:

competent diplomatic missions or a competent consular office – with the consent of the foreigner to whom the request applies;

a guardianship court if there is a need to establish custody of minors that are under the custody of the foreigner;

a social assistance institution if it is necessary to provide care for sick or infirm persons that were under the custody of the foreigner;

a person indicated by the foreigner.

2. A court shall notify a foreigner in a language that he/she understands of the taken measures and the issued orders and the rights available to a foreigner in the proceedings before a court of law.

Article 403. 1. A court of law, in its ruling ordering to place a foreigner in a guarded centre or in a detention centre for foreigners, shall indicate the period of stay in a guarded centre or in a detention centre for foreigners, but not more than 3 months.

2. The period of stay in a guarded centre or in a detention centre for foreigners may be extended for a fixed period of time where there are reasonable grounds to believe that the period of execution of the decision on imposing the return obligation on a foreigner will be extended and when:

- 1) a foreigner for whom a decision on imposing the return obligation has been issued does not co-operate with a Polish Border Guard authority in the execution of the decision, or

2) execution of the decision on imposing the return obligation on a foreigner is temporarily impossible due to delays in obtaining documents from third parties necessary for this purpose.

3. The period of stay in a guarded centre or in a detention centre for foreigners must not exceed 12 months, where each subsequent ruling of the court in their case shall be issued for a period not longer than three months.

4. The 12-month period referred to in paragraph 3 shall not include the period of stay of a foreigner in a guarded centre or in a detention centre for foreigners in connection with the application for refugee status submitted by him/her.

5. If a foreigner has filed a complaint to the administrative court against the decision on imposing the return obligation with a request to stay the execution thereof, the period of stay in a guarded centre or in a detention centre for foreigners may be extended to 18 months, yet the court referred to in paragraph 7 may issue a decision on the case for a period of 6 months.

6. A foreigner shall be placed in a guarded centre or in a detention centre for foreigners for the shortest possible period.

7. The district court having jurisdiction over the location of a guarded centre or a detention centre for foreigners in which the foreigner was placed shall issue a ruling to extend the foreigner's stay in a guarded centre or in a detention centre for foreigners at the request of the Polish Border Guard obliged to execute the decision on imposing the return obligation on a foreigner.

8. The ruling referred to in paragraphs 1 and 7 may be appealed against to the district court within 7 days from receipt of the ruling. The court shall examine the appeal within 7 days.

Article 404. The provisions of the Code of Criminal Procedure shall apply to the proceedings on placing a foreigner in a guarded centre, to the detention of foreigners in detention centres, to the extension of the foreigner's stay in a guarded centre or in a detention centre for foreigners and to the release of a foreigner from a guarded centre or a detention centre for foreigners, with the proviso that the activities reserved for a public prosecutor may be exercised by a Polish Border Guard officer.

Article 405. 1. A pregnant woman may stay in a detention centre for foreigners until the 4 month of pregnancy.

2. A Polish Border Guard authority to which a detention centre for foreigners is subordinated shall request a court of law to place a pregnant woman in custody in a guarded centre before the end of the third month of her pregnancy.

Article 406. 1. A decision to release a foreigner from a guarded centre or a detention centre for foreigners shall be issued immediately ex officio or at the request of a foreigner, a Polish Border Guard authority to which a guarded centre or detention centre for foreigners is subordinated, in the case:

- 1) when the reasons justifying the use of such measures ceased to exist, or
- 2) it was ascertained that there are circumstances referred to in Article 400, or
- 3) it was ascertained that there are circumstances other than those referred to in Article 400, preventing the use of these funds, or

- 4) when a foreigner was granted the certificate referred to in Article 170, or when there are pending proceedings on granting him/her the permit referred to in Article 176, or
- 5) when a foreigner has been subjected to temporary detention or another remedy resulting in the imprisonment, or
- 6) it was ascertained that, for legal or factual reasons, the execution of a decision on imposing the return obligation on a foreigner is not possible.

2. The ruling of a Polish Border Guard authority to dismiss a request to release a foreigner from a guarded centre or a detention centre for foreigners may be appealed against within 7 days of receipt of the ruling. The complaint shall be filed to a district court territorially competent for the seat of the Polish Border Guard authority to which a guarded centre or a detention centre is subordinated through the medium of the Polish Border Guard authority to which a guarded centre or a detention centre is subordinated.

3. The complaint referred to in paragraph 2 may be filed only if the request was submitted after at least one month from the date of issue of the ruling concerning the placement of a foreigner in a guarded centre or in a detention centre for foreigners, the extension of the foreigner's stay in a guarded centre or in a detention centre for foreigners or the release of a foreigner from a guarded centre or a detention centre for foreigners.

4. A Polish Border Guard body to which a guarded centre or a detention centre for foreigners is subordinated shall immediately transmit a complaint to a district court. The court shall examine the complaint within 7 days.

5. A foreigner placed in a guarded centre or in a detention centre for foreigners shall be released in case of:

- 1) when the period of stay specified in the ruling referred to in Article 403(1) or (7) has passed, or
- 2) a ruling or an order has been issued to release a foreigner from a guarded centre or a detention centre for foreigners, or
- 3) of forced execution of a decision on imposing the return obligation on a foreigner, or
- 4) of delivery of one of the following decisions to a foreigner:
 - a) revocation or annulment of a decision on imposing the return obligation on a foreigner or
 - b) decision on granting refugee status to a foreigner, granting him/her subsidiary protection or awarding him/her asylum in the Republic of Poland or
 - c) granting a foreigner a residence permit for humanitarian reasons or a permit for tolerated stay within the territory of the Republic of Poland.

6. A Polish Border Guard authority to which a guarded centre or detention centre for foreigners is subordinated shall immediately inform the court that issued the decision on placing a foreigner in a guarded centre or in a detention centre for foreigners.

Article 407. 1. A foreigner shall be entitled to receive compensation from the State Treasury and compensation for wrongful detention or wrongful placement in a guarded centre or in a detention centre for foreigners.

2. Proceedings in cases referred to in paragraph 1 shall be carried out under the provisions of the Code of Criminal Procedure in the area of compensation for wrongful conviction, temporary detention or arrest.

Article 408. The functioning of a guarded centres and detention centres for foreigners is financed by the state budget of the part that is administered by the minister competent for internal affairs by the funds at the disposal of the Commander-in-Chief of the Polish Border Guard.

Article 409. 1. The minister competent for internal affairs, by way of regulation, shall establish and dissolve guarded centres, define the authority of the Polish Border Guard to which a given centre is subordinated and may indicate the period necessary to organise such a centre, taking into account the needs in this respect.

2. The minister competent for internal affairs, by way of regulation, shall designate the premises in which a detention centre is made for foreigners, having regard to the rational use of such premises.

Chapter 2

Foreigners' stay at a guarded centre or at a detention centre for foreigners

Article 410. 1. Receipt of a foreigner in a guarded centre or a detention for foreign nationals on the basis of a court ruling ordering to place a foreigner in a guarded centre or a detention centre for foreigners.

2. A foreigner shall be obliged to surrender the following for custody in a guarded centre or a detention centre for foreigners:

- 1) documents confirming his/her identity, money and valuables;
- 2) technical equipment used for image recording;
- 3) items that may pose a threat to the order and safety at a guarded centre or at a detention centre.

3. After admission to a guarded centre or a detention centre for foreigners, a foreigner shall be obliged to surrender for custody the objects whose dimensions or quantity limit the room area for foreigners or a residential cell.

Article 411. A foreigner received at a guarded centre or a detention centre for foreigners shall be instructed in a language he/she understands about his/her rights and obligations and shall get acquainted with the rules governing the stay in a guarded centre or a detention centre for foreigners. The fact that the foreigner has read the instruction shall be confirmed with his/her signature.

Article 412. 1. After admission to a guarded centre or a detention centre for foreigners and during the stay at a guarded centre or a detention centre in cases justified by safety and order reasons, a foreigner shall undergo a detailed examination.

2. Detailed examination of a foreigner body shall consist in visual body inspection and check of the clothes, underwear and shoes, as well as objects owned by a foreigner or belonging to him/her. The

body search and verification of clothing, underwear and footwear shall be carried out in a room without the presence of unauthorised persons and persons of the opposite sex.

3. The items that were found during a detailed examination and that the foreigner must not hold in a guarded centre or in a detention centre for foreigners shall be intercepted held in custody. The items whose owner has been established, shall be transmitted to the deposit or sent to the person, institution or organisation indicated by the foreigner at his/her expense. In justified cases, these items may be sent at the expense of a guarded centre or a detention centre for foreigners.

Article 413. 1. A foreigner admitted to a guarded centre or a detention centre for foreigners shall immediately undergo a medical examination and if necessary sanitary measures.

2. The physician conducting the examination referred to in paragraph 1 and providing the medical care for foreigners in a guarded centre or in a detention centre for foreigners shall keep the medical documentation under the terms specified in the Act of 6 November 2008 on the rights of the patient and the patient's Ombudsman (Dz.U. of 2012, item 159 and 742 and Dz.U. of 2013 item 1245).

3. The examination costs referred to in paragraph 1 shall be covered by the state budget from the part that is administered by the minister competent for internal affairs from the funds at the disposal of the Commander-in-Chief of the Polish Border Guard.

Article 414. 1. A foreigner admitted to a guarded centre shall be placed in a room for foreigners, and a foreigner admitted to a detention centre for foreigners in an accommodation cell.

2. Foreigners of the opposite sex shall be accommodated separately.

3. A foreigner placed in a guarded centre along with members of his/her family or with a minor under his/her custody shall be provided with a common room for foreigners.

4. A minor foreigner staying in a guarded centre unattended shall be placed in a separate part of the centre.

5. Foreigners who declare that they are the closest people to each other shall be placed, upon their written request, as far as possible in one room for foreigners.

Article 415. 1. A foreigner placed in a guarded centre or in detention centre for foreigners shall have the right:

1) to get in touch with the Polish state authorities, as well as the diplomatic mission or consular office of a foreign country;

2) to get in touch with NGOs or international organisations involved in the provision of assistance to foreigners, including legal aid;

3) to get in touch with his/her attorney;

4) to use the following objects surrendered for custody:

a) the items referred to in Article 410(2)(2) and paragraph 3 if they have not been secured to cover the costs associated with the issue and execution of a decision on imposing the return obligation on a foreigner,

- b) money, subject to Article 343(5),
 - c) the valuables if they have not been secured to cover the costs associated with the issue and execution of a decision on imposing the return obligation on a foreigner,
- 5) to use medical care and stay at a hospital or a medical institution performing medical activities such as full inpatient care and round-the-clock health services if his/her health condition so requires;
 - 6) to have uninterrupted sleep between 10 PM and 7 AM, and on holidays to 8 AM and during other times if it is not in breach with the rules of order governing the stay at a guarded centre or a detention centre for foreigners;
 - 7) to use sanitation facilities and cleaning products necessary to maintain personal hygiene;
 - 8) to receive clothes, underwear and shoes adapted to the seasons free of charge, as long as the things owned by a foreigner are not suitable for use, or their use is not permitted for reasons of hygiene, and the foreigner does not have his/her own funds to buy them;
 - 9) to possess objects of worship, religious practices and the use of religious services and listen to or to watch church services transmitted by the mass media in a residential premises or place of residence, without disrupting the established order of stay in a guarded centre or in a detention centre for foreigners;
 - 10) to read press, to buy press using his/her own funds and to hold it in a room for foreigners or in an accommodation cell;
 - 11) to use the internet at computer workstations available in a guarded centre or in a detention centre for foreigners;
 - 12) to use a library;
 - 13) to use leisure and sporting equipment at the time and place specified by the head of a guarded centre or the officer responsible for the operation of a detention facility for foreigners;
 - 14) to purchase, using his/her own funds, food and personal items used to maintain personal hygiene and to have them in the room for foreigners or in a cell; possession of these items in an accommodation cell is possible if they or their packaging does not pose a threat to order or safety in a detention centre for foreigners;
 - 15) to purchase, using own funds, stationery, books and games and to have them in the room for foreigners or in an accommodation cell;
 - 16) to receive parcels with clothes, shoes and other personal belongings and products for dressings and hygiene, as well as drugs that may be transferred with the consent of a physician after checking their contents in the presence of a foreigner;
 - 17) to have correspondence and use the means of communication at his/her own expense, and in particularly justified cases to use the means of communication or send mail at the expense of a guarded centre or a detention centre for foreigners;
 - 18) to submit requests, complaints and applications to:

a) the head of a guarded centre or an authority of the Polish Border Guard to which a given centre is subordinated,

b) the officer responsible for the operation of a detention centre for foreigners or a Polish Border Guard authority to which a detention centre is subordinated;

19) to receive visits of close persons in a specially designed rooms with the approval of a Polish Border Guard authority to which a given guarded centre or a detention centre for foreigners is subordinated or a person authorised by that authority.

2. A foreigner may enjoy other rights than those specified in paragraph 1 if he/she has obtained a permit of the Polish Border Guard authority to which a guarded or detention centre for foreigners is subordinated or a person authorised by such an authority.

Article 416. 1. A foreigner placed in a guarded centre shall have, apart from the rights referred to in Article 415(1), the following rights:

- 1) to purchase, using own funds, tobacco products and to have them in the room for foreigners;
- 2) to move within the premises of a centre from 7 AM to 10 PM, and on holidays: from 8 AM to 22 PM with the exception of the places where the administration denied access.

2. Minors in a guarded centre shall have the right to participate, at the time and place specified by the head of a centre, in teaching and educational activities and in recreational and sports activities. The schedule should be adapted to the age of a minor and the length of its stay within the territory of the Republic of Poland.

3. A foreigner placed in a guarded centre shall also have, apart from the rights referred to in Article 415(1), the following rights:

- 1) to have an at least a two-hour daily walk in the open air, unless otherwise indicated by the recommendations of a physician;
- 2) to get in touch with other foreigners who are at a detention centre if he/she has obtained a permit of an officer on duty at a detention centre, for a given place and time;
- 3) to use games at the time and place specified by the officer on duty at a detention centre;
- 4) to purchase, using his/her own funds, tobacco products and to smoke them in a place intended for that purpose if he/she has obtained a permit of an officer on duty at a detention centre.

Article 417. 1. A foreigner placed in a guarded centre or in detention centre for foreigners shall be receive health services, medications, sanitary products, food and beverages.

2. A foreigner shall receive health services, medications and sanitary products according to the principles laid down in Article 115 of the Act of 6 June 1997 – Executive Criminal Code (Dz. U. No. 90, item 557, as amended²⁹), hereinafter referred to as the “Executive Criminal Code”.

²⁹ Amendments to the above-mentioned Act were promulgated in Dz.U. of 1997, No. 160, item 1083, Dz.U. of 1999, No. 83, item 931, Dz.U. of 2000, No. 60, item 701 and No. 120, item 1268, Dz.U. of 2001, No. 98, item 1071 and No. 111, item 1194, Dz.U. of 2002, No. 74, item 676 and No. 200, item 1679, Dz.U. of 2003, No. 111, item 1061, No. 142, item 1380 and No. 179, item 1750, Dz.U. of 2004, No. 93, item 889, No. 210, item 2135,

Article 418. In order to ensure the safety of foreigners in a guarded centre or in a detention centre for foreigners, surveillance of the premises may be carried out and their image recorded using technical means according to the principles specified in the Act of 12 October 1990 on the Polish Border Guard.

Article 419. A foreigner placed in a guarded centre or in detention centre for foreigners shall be obliged to:

- 1) comply with the rules of stay in a guarded or detention centre;
- 2) carry out instruction issued by the centre's administration or an officer on duty in a detention centre;
- 3) observe night quiet hours from 10 PM to 7 AM, and holidays to 8 PM;
- 4) follow the rules of social intercourse;
- 5) take care of personal hygiene and keep his/her room clean;
- 6) use equipment or a guarded or detention facility according to its purpose;
- 7) in case of symptoms of illness, to immediately inform the administration of a centre or an officer on duty in a detention centre;
- 8) in case of an occurrence with dangerous consequences, to immediately inform the administration of a centre or an officer on duty in a detention centre.

Article 420. 1. A foreigner placed in a guarded centre or in detention centre for foreigners shall be forbidden to:

- 1) disturb the peace and order at a guarded centre or at a detention centre for foreigners;
- 2) have technical devices to record the image and items that may pose a threat to the order and safety at a centre or at a detention centre for foreigners outside the custody deposit;
- 3) have items that are so large or are in such a quantity that they limit area of a room for foreigners or in an accommodation cell in the rooms for foreigners or in accommodation cells;
- 4) consume alcohol and narcotic drugs or psychotropic substances;
- 5) smoke tobacco in places other than the ones intended for that purpose;
- 6) inflict injury of his/her body at health disorders, as well as encourage others to commit such acts or assist in such acts;
- 7) organise gambling games and participate in them.

No. 240, item 2405, No. 243, item 2426 and No. 273, item 2703, Dz.U. of 2005, No. 163, item 1363 and No. 178, item 1479, Dz.U. of 2006, No. 104, item 708 and No. 226, item 1648, Dz.U. of 2007, No. 123, item 849, Dz.U. of 2008, No. 96, item 620 and No. 214, item 1344, Dz.U. of 2009, No. 8, item 39, No. 22, item 119, No. 62, item 504, No. 98, item 817, No. 108, item 911, No. 115, item 963, No. 190, item 1475, No. 201, item 1540 and No. 206, item 1589, Dz.U. of 2010, No. 34, item 191, No. 40, item 227, No. 125, item 842 and No. 182, item 1228, Dz.U. of 2011, No. 39, item 201 and 202, No. 112, item 654, No. 129, item 734, No. 185, item 1092, No. 217, item 1280 and No. 240, item 1431, Dz.U. of 2012, item 908 and Dz.U. of 2013, item 628 and 1247.

2. A foreigner placed in a guarded centre or in detention centre for foreigners shall be forbidden to (apart from the prohibitions referred to in paragraph 1):

- 1) unauthorised departure of a guarded centre or presence within places the access to which was banned by the administration of a centre;
- 2) make unauthorised changes of the room for foreigners and place designated for sleeping.

Art. 421. 1. A foreigner placed in a guarded centre shall bear disciplinary liability for violation of orders or prohibitions arising from Articles 419, Article 420 and from the regulations issued pursuant to Article 427(1).

2. Disciplinary sanction shall consist in depriving a foreigner for up to 7 days of the right to:

- 1) participate in cultural, educational or sports activities, except for the right to use the library and the right to read the press, or
- 2) purchase food and tobacco products and other products authorised to carry at a guarded centre.

3. A disciplinary sanction referred to in paragraph 2 shall be imposed by way of a decision – upon a written request of the head of a guarded centre or an officer authorised by him/her – by the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost with jurisdiction over the location of a guarded centre.

4. When imposing the disciplinary sanction to a foreigner, as referred to in paragraph 2, in particular the following shall be taken into account:

- 1) the degree of violation of orders or prohibitions arising from this Act;
- 2) the type and circumstances of the committed act;
- 3) the hitherto attitude of a foreigner;
- 4) the foreigner's health status;
- 5) cultural values and religious beliefs of a foreigner;
- 6) educational objectives.

Article 422. The decision to punish a foreigner by imposing a disciplinary sanction shall include:

- 1) the designation of the authority that issued the decision;
- 2) issue date of the decision;
- 3) name and surname of a foreigner;
- 4) the legal basis for the imposition of a disciplinary sanction;
- 5) the type of the imposed disciplinary sanction;
- 6) a description of the orders and prohibitions arising from this Act and infringed by a foreigner;

7) signature, name and surname and official rank of the commanding officer of a Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost or an officer authorised by him/her.

Article 423. In proceedings on the imposition of a disciplinary sanction, the provisions of the Executive Criminal Code shall apply.

Article 424. 1. If a foreigner's life is at threatened because of a serious danger resulting from the fact that the foreigner refused to eat food, which will be confirmed by at least two physicians, a foreigner may undergo a necessary medical procedure, including surgery, even without his/her consent.

In the absence of foreigner's consent to undergo such a medical procedure, submission of a foreigner to such a procedure shall be decided by a district court of law with jurisdiction over the place of residence of a foreigner, upon request of the Polish Border Guard body to which a guarded or detention centre for foreigners in which a foreigner resides is subordinated.

In the ruling referred to in paragraph 2, the court shall determine the manner and place of the medical procedure.

In the case of a direct threat to the life of a foreigner, the need to conduct a medical procedure shall be decided by a physician.

Article 425. 1. A foreigner to be released from a guarded centre or a detention centre for foreigners shall be given the following items given by him/her for custody:

- 1) documents proving his/her identity;
- 2) the funds in an amount without the deductions referred to in Article 343(1) or in the full amount if the decision on the determination of the amount of the costs referred to in Article 336(1) has not been issued;
- 3) the items if they have not been secured to cover the costs associated with the issue and execution of a decision on imposing the return obligation on a foreigner.

2. In case when following a release of a foreigner from a guarded centre or a detention centre for foreigners, a decision on imposing the return obligation on a foreigner is subject to forced execution, the documents confirming the identity of a foreigner and the items referred to in Article 410(2)(2) and (3) shall be collected from the deposit by an escorting commander and shall be returned to a foreigner at a Polish Border Guard facility in which the foreigner crosses the border or at an airport or sea port of the state to which the foreigner is to be brought.

3. Upon request of a foreigner to be released from a guarded centre or a detention centre for foreigners, the items handed by him/her for custody may be released to a person authorised by him/her in writing or to an institution or organisation indicated by him/her. The costs of release of the items from the deposit shall be borne by the foreigner.

Article 426. 1. Supervision over the legality and regularity of stay of foreigners in guarded centres and detention centres for foreigners shall be exercised penitentiary judge of a district court of law, hereinafter referred to as "penitentiary judge", with jurisdiction over the location of a guarded centre or a detention centre for foreigners.

2. The penitentiary supervision exercised in a guarded centre and in a detention centre for foreigners by a penitentiary judge of a district court shall consist in auditing and assessing in particular the following:

- 1) the living conditions of foreigners, the state of medical care, the regularity of the distribution of foreigners in the rooms for foreigners and for residential purposes, respect for the rights of foreigners referred to in Articles 415-417;
- 2) the accuracy of processing of complaints and requests of foreigners;
- 3) the validity of disciplinary sanctions administered to foreigners;
- 4) the validity and circumstances of medical treatment of foreigners referred to in Article 424;
- 5) organisational rules of procedure established in a guarded centre or in a detention centre for foreigners;
- 6) observance of safety regulations in a guarded centre or in a detention centre for foreigners, including the rules on the use of coercive measures;
- 7) the regularity of the conduct of administration of a guarded centre or a detention centre for foreigners in case of detecting that an offense was committed, as well as in cases of extraordinary events, including the death of a foreigner or rebellions.

3. A penitentiary judge shall visit guarded centres and detention centres for foreigners. At any time and without restrictions, he/she shall have the right to enter those places and move within this territory, the right to inspect documents, request clarification from the administration of these guarded centres and detention centres and, in the absence of other people, to conduct conversations with foreigners placed in these guarded centres and detention centres.

4. If in the opinion of a penitentiary judge, it is necessary to issue a decision beyond their jurisdiction, in particular an administrative decision, he/she shall transmit their findings together with appropriate requests to the Polish Border Guard authority to which a guarded centre or detention centre for foreigners is subordinated.

5. The authority referred to in paragraph 4 shall notify a penitentiary judge within 14 days or within another deadline defined by a penitentiary judge of their decisions or actions. Should a penitentiary judge find this position unsatisfactory, he/she shall refer the matter to the Commander-in-Chief of the Polish Border Guard. Commander-in-Chief of the Polish Border Guard shall notify the penitentiary judge of the method to handle the case.

6. In case when flagrant infringements of the rules of functioning of a guarded centre or a detention centre for foreigners recur, or if the conditions in a guarded centre or a detention centre do not ensure respect for the rights of foreigners who stay there, a penitentiary judge shall request the Commander-in-Chief of the Polish Border Guard to make good the detected deficiencies within a specified period. If the deficiencies have not been made good within a specified period, a penitentiary judge shall request the minister competent for internal affairs to suspend the operation of or to close in whole or in part a guarded centre or a detention centre for foreigners.

7. The Minister of Justice, in consultation with the minister competent for internal affairs, shall specify, by way of regulation, the manner and procedure for exercising the supervision over guarded

centres and detention centres for foreigners by a penitentiary judge and the way of documenting that supervision, while taking into account in particular the need to ensure the regularity of placement and residence of foreigners in guarded centres and detention centres for foreigners and effective rectification of the identified deficiencies.

Article 427. 1. The minister competent for internal affairs shall specify by way of an ordinance the following:

- 1) the conditions to be met by guarded centres and detention centres for foreigners, taking into account in particular the distribution of foreigners in the rooms for foreigners and for residential purposes;
- 2) organisational rules of procedure for the stay of foreigners in a guarded centre and in a detention centre for foreigners, taking into account the need to ensure internal order in a guarded centre and in a detention centre;
- 3) the conditions for receiving food and beverages by foreigners placed in a guarded centre or in a detention centre for foreigners and the daily nutrition standard, in particular taking into account the age and health status of foreigners, as well as religious and cultural nutrition requirements of foreigners.

2. The minister competent for internal affairs may determine, by way of regulation, the methods of protection of guarded centres and detention centres for foreigners, while taking into consideration the organisational structure of the Polish Border Guard, the duties of Polish Border Guard officers on duty in guarded centres or detention centres for foreigners, as well as the conditions of admission into the guarded centres and detention centres by persons who are not officers or employees of the Polish Border Guard.

SECTION X

Registers, records and lists of foreigners

Chapter 1

Registers in cases of foreigners and record of invitations

Article 428. 1. In the matters pertaining to the entry of foreigners into the territory of the Republic of Poland, stay within that territory and departure from it, the following shall be maintained in an IT system:

- 1) registers of persons:
 - a) who were granted the entry permit referred to in Article 32(1),
 - b) detained within the border zone and brought to the border;
- 2) records of matters relating to:
 - a) denied stay within the territory of the Republic of Poland,
 - b) local border traffic permits,
 - c) visas,

- d) temporary residence permits,
 - e) permanent residence permits,
 - f) long-term resident's EU residence permits,
 - g) the issue and exchange of Polish identity documents of a foreigner,
 - h) the issue and exchange of temporary Polish travel documents of a foreigner,
 - i) the issue and exchange of Polish travel documents of a foreigner,
 - j) return obligations,
 - k) expulsions of EU citizens and their family members from the Republic of Poland,
 - l) execution of decisions on imposing the return obligation on a foreigner issued by an authority of the issuing Member State,
 - m) residence permits for humanitarian reasons or permits for tolerated stay;
- 3) a register of foreigners whose fingerprints were taken in the situations referred to in Articles 35(2), Article 324(1) and Article 394(3) of this or Article 73a of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families;
 - 4) a register of fingerprints were taken from the foreigners in the situations referred to in Articles 35(2), Article 324(1) and Article 394(3) of this or Article 73a of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families;
 - 5) a record of invitations;
 - 6) A record of instructions given to foreigners holding a valid permanent residence permit or other permits for stay issued by another Schengen country about the obligation to immediately leave the territory of the Republic of Poland for the territory of that Schengen country;
 - 7) a register of the certificates issued to a foreigner, as referred to in Article 170.

2. The registers referred to in paragraph 1(1)(b), subparagraph 2(1) and subparagraph 6 may be kept in a system of files.

Article 429. 1. The registers for the cases in the matters pertaining to the entry of foreigners into the territory of the Republic of Poland, his/her stay within that territory and departure from it shall be maintained by the following bodies:

- 1) a consul, the commanding officer of a Polish Border Guard unit, the commanding officer of a Polish Border Guard outpost, the Commander-in-Chief of the Polish Border Guard, a voivode, the minister competent for foreign affairs and the Head of the Office, each within their jurisdiction – in the case of registers referred to in Article 428(1)(2)(c);
- 2) a voivode and the Head of the Office, each within their jurisdiction – in the case of registers referred to in Article 428(1)(2)(d)-(g) and (k);

3) a voivode, a consul and the commanding officer of a Polish Border Guard outpost, the Commander-in-Chief of the Polish Border Guard, the Head of the Office, each within their jurisdiction – in the case of registers referred to in Article 428(1)(2)(h);

4) the commanding officer of a Polish Border Guard unit and the commanding officer of a Polish Border Guard outpost, each within their jurisdiction

- in the case of the register referred to in Article 428(1)(6);

5) the Commander-in-Chief of the Polish Border Guard – in the case of the register referred to in Article 428(1)(1)(a) and subparagraph 2(l);

6) the commanding officer of a Polish Border Guard unit – in the case of the register referred to in Article 428(1)(1)(b);

7) the commanding officer of a Polish Border Guard outpost and the Commander-in-Chief of the Polish Border Guard, each within their jurisdiction

- in the case of the register referred to in Article 428(1)(2)(a);

8) the Commander-in-Chief of the Police – in the case of the register referred to in Article 428(1)(4);

9) the commanding officer of a Polish Border Guard unit, the commanding officer of a Polish Border Guard outpost, the Commander-in-Chief of the Polish Border Guard and the Head of the Office, each within their jurisdiction – in the case of register referred to in Article 428(1)(2)(j);

10) a consul, the commanding officer of a Polish Border Guard unit, the commanding officer of a Polish Border Guard outpost, a voivodeship commanding officer or a poviast (municipal) Police commander, a voivode, each within their jurisdiction – in the case of register referred to in Article 428(1)(2)(b);

11) the commanding officer of a Polish Border Guard unit, the commanding officer of a Polish Border Guard outpost Guard and the Head of the Office, each within their jurisdiction – in the case of register referred to in Article 428(1)(2)(m);

12) the commanding officer of a Polish Border Guard unit and the commanding officer of a Polish Border Guard outpost, a voivodeship Police commander, a poviast (municipal) Police commander, each within their jurisdiction – in the case of register referred to in Article 428(1)(3);

13) the minister competent for internal affairs – in the case of the register referred to in Article 428(1)(7).

2. The records of invitations shall be maintained by a voivode and the Head of the Office, each within their jurisdiction.

Article 430. 1. The registers kept in the matters relating to the entry of foreigners into territory of the Republic of Poland, the stay within that territory and departure from it, as referred to in Article 428(1)(2)(a)-(k) and (m), as well as the records of invitations shall include information about the applications, rulings, administrative decisions, judicial decisions and the personal data processed in accordance with this Act, relating to foreigners involved in proceedings on the cases concerned by these registers and records.

2. Apart from the information and data referred to in paragraph 1, the registers referred to in Article 428(1)(2)(b)-(k) and (m), as well as the records of invitations in shall also include:

1) in the case of the register referred to in Article 428(1)(2)(b) – the information about:

- a) the date of issue, number, series and expiry date of a local border traffic permit,
- b) damaged or destroyed local border traffic permits,
- c) stay of a foreigner within territory of the Republic of Poland outside the border zone within which – in accordance with the permit – he/she was allowed to stay, or about a stay within that territory after the deadline has passed for which he/she was entitled to do so under the permit,
- d) decision to cancel a local border traffic permit,
- e) fines imposed on a foreigner for staying:
 - outside the border zone in which he/she was allowed to stay in accordance with the local border traffic permit, or
 - within the territory of the Republic of Poland after the expiry of the period of stay set out in the local border traffic permit;
- f) decisions to revoke a local border traffic permit,

2) in the registers referred to in Article 428(1)(2)(d)-(f):

- a) the information about the documents on the basis of which the foreigner's identity has been confirmed,
- b) the information about the residence card issued to a foreigner, its loss, damage or cancellation,
- c) an image of fingerprints of a foreigner;

3) in the registers referred to in Article 428(1)(2)(g)-(i):

- a) the information about the following documents issued to a foreigner:
 - a Polish identity document of a foreigner,
 - a temporary Polish travel documents for a foreigner,
 - a Polish travel documents for a foreigner,
- b) the information about the loss, damage or cancellation of the documents referred to in point (a),
- c) the foreigner's data contained in the documents referred to in point. (a);

4) in the register referred to in Article 428(1)(2)(j) – a photograph of a foreigner and information about:

- a) the date of foreigner's departure from the territory of the Republic of Poland,

b) decisions on the costs of forced execution of a decision on imposing the return obligation on a foreigner;

5) in the register referred to in Article 428(1)(2)(k) – the information about the date of foreigner's departure from the territory of the Republic of Poland;

6) in the case of the register referred to in Article 428(1)(2)(m):

a) the information about the residence card issued to a foreigner, its loss, damage or cancellation,

b) the information about the “permit for tolerated stay” issued to a foreigner, its loss, damage or cancellation,

c) an image of fingerprints of a foreigner;

7) in the record of invitations – information about the invitation, including:

a) personal data of the inviting party,

b) other information included in the invitation,

c) the personal data of the representative authorised to receive the invitation.

3. The register referred to in Article 428(1)(1)(a) shall include the personal data of foreigners who were granted the entry permit referred to in Article 32(1).

4. The register referred to in Article 428(1)(1)(b) shall include the personal data of foreigners who were detained in the border zone and transferred to the border.

5. The register referred to in Article 428(1)(2)(l) shall include the information about the date of foreigner's departure from the territory of the Republic of Poland.

6. The register referred to in Article 428(1)(3) shall include:

1) the following personal data of a foreigner whose fingerprints were taken:

a) first name(s) and surname,

b) date and place of birth,

c) citizenship;

2) information about:

a) the legal basis for taking the fingerprints,

b) the official rank of the person to took the fingerprints and his/her name and surname.

7. The register referred to in Article 428(1)(4) shall include:

1) an image of fingerprints of a foreigner;

2) the information about the legal basis for taking the fingerprints of a foreigner;

- 3) the information about the date of taking the fingerprints of a foreigner;
- 4) the information about fingerprint cards or about taking the foreigner's fingerprints with a device for electronic fingerprinting;
- 5) the following personal data of a foreigner:
 - a) first name(s) and surname,
 - b) date and place of birth,
 - c) citizenship.

The register referred to in Article 428(1)(6) shall include the data of the foreigners who were given the instructions about the obligation to immediately leave the territory of the Republic of Poland and enter the territory of a European Union Member State that has granted him/her a residence permit or another permit authorising him/her to stay within its territory.

The register referred to in Article 428(1)(7) shall include:

- 1) The following personal data of a foreigner who has been granted a certificate referred to in Article 170:
 - a) first name(s) and surname,
 - b) date and place of birth,
 - c) citizenship,
 - d) sex;
- 2) information about the authority that has issued the certificate referred to in Article 170;
- 3) information about the date of issue of the certificate referred to in Article 170.

Article 431. 1. The data in the form of fingerprints taken in order to grant a foreigner a permit to cross the border under the local border traffic regime, in order to issue him/her a residence card or a permit for tolerated stay shall be stored in the registers referred to in Article 428(1)(2)(b), (d)-(f) and (m) until an acknowledgment of receipt of such a permit, a residence card or a permit for tolerated stay have been entered into these registers by the authority granting a permit to cross the border under the local border traffic regime, the authority issuing a residence card or a permit for tolerated stay.

2. Should a decision be issued to deny a foreigner a permit to cross the border under the local border traffic regime, a temporary residence permit, permanent residence permit or a long-term resident's EU residence permit or a decision to refuse to issue a residence card or a permit for tolerated stay or a decision to refuse to replace them, then the data in the form of fingerprints shall be stored in the registers referred to in Article 428(1)(2)(b), (d)-(f) and (m) until the information about the issue of these decisions has been entered into the registers when these decisions have become final and binding.

Article 432. 1. The data from the register of fingerprints referred to in Article 428(1)(4) shall be made available to the entities referred to in Article 450(1)(1) and (2) and to the Head of the Office to the extent necessary to fulfil their statutory duties.

2. The data from the register of fingerprints referred to in Article 428(1)(4) shall be made available upon request in writing by the entities referred to in Article 450(1)(1) and (2) and by the Head of the Office.

3. The data from the register of fingerprints referred to in Article 428(1)(4) may be made available via telecommunication devices without the need to submit a written request to that effect to the entities referred to in Article 450(1)(1) and (2) and to the Head of the Office, provided that they meet the following conditions:

1) they have a properly protected telecommunications equipment or ICT systems designed for communication with the register of fingerprints;

2) they have technical and organisational safeguards appropriate for the processing of personal data, in particular to prevent unauthorised access to the processing of personal data and the use of data contrary to the purpose of their acquisition;

3) performing the tasks whose specifics or scope justify the acquisition of data in this way, or they run a business whose specifics or scope justify the acquisition of data in this way.

4. The data from the register of fingerprints referred to in Article 428(1)(4) shall be made available by the Commander-in-Chief of the Police.

Article 433. The rules for keeping the records referred to in Article 428(1)(1)(b) and subparagraph 2(1) and the rules for making available the data contained in these registers shall be defined in separate regulations.

Chapter 2

List of foreigners whose stay within the territory of the Republic of Poland is undesirable

Article 434. A list of foreigners whose stay within the territory of the Republic of Poland is undesirable, hereinafter referred to as “the list”, shall be kept by the Head of the Office.

Article 435. 1. The data of a foreigner shall be entered into the list and stored in it if at least one of the following premises has been fulfilled:

1) a decision on imposing the return obligation on a foreigner has been issued, and a prohibition on re-entry into the territory of the Republic of Poland or a prohibition on entry into the territory of the Republic of Poland and other countries of the Schengen area has been issued;

2) a foreigner has been convicted by a final judgement in:

a) the Republic of Poland – for an intentional crime or a tax crime to pay a fine or serve a prison sentence, or

b) a country other than a Schengen country – for an offense constituting a crime under Polish law, or

c) the Republic of Poland or another Schengen state – for an offense to serve a prison sentence for more than one year;

3) the foreigner's entry into or stay within the territory of the Republic of Poland is undesirable due to obligations arising from the provisions of ratified international agreements applicable to the Republic of Poland;

4) it is justified by national security or defence, the protection of public order and safety or the interests of the Republic of Poland;

5) a foreigner has been transferred to a third country on the basis of an international agreement on the transfer and acceptance of persons after detention because of border crossing in violation of legal regulations.

2. The inclusion of data of foreigner in the list may be made without his/her knowledge or consent.

Article 436. 1. The list shall include the data of a foreigner:

1) who is a spouse of a Polish citizen or is a spouse of a foreigner who resides within the territory of the Republic of Poland and holds a permanent residence permit or a long-term resident's EU residence permit, unless:

a) it is justified by national security or defence, the protection of public safety and order, or

b) a decision to deny a foreigner a temporary residence permit or permanent residence permit, issued because it was ascertained that a marriage was concluded in order to circumvent this Act by a foreigner has become final and binding, or

c) a decision imposing the return obligation on a foreigner was issued for reasons of national security or defence, the protection of public order and safety, or because it was ascertained that a marriage was concluded in order to circumvent this Act by a foreigner, has become final and binding;

2) who is a minor, except when its stay within the territory of the Republic of Poland might pose a threat to national security or defence, the protection of public order and safety;

3) who has been convicted by a final judgment in the Republic of Poland for an intentional offense or a tax offense to pay a fine, provided that he/she has paid the fine;

4) who was granted a permanent residence permit or a long-term resident's EU residence permit within the territory of the Republic of Poland;

5) who has been granted subsidiary protection, the permit referred to in Article 176 or Article 187(6) or (7), a residence permit for humanitarian reasons, a permit for tolerated stay on the basis of Article 351(1) or has been given refugee status;

6) who has been granted a decision to revoke the prohibition on re-entry into the territory of the Republic of Poland.

2. The data of a foreigner referred to in paragraph 1 included in the list shall be removed.

Article 437. 1. The validity of an entry into the list shall be suspended if:

1) an has been granted a permit for tolerated stay granted pursuant to Article 351(2), or

2) a foreigner has been granted temporary protection, or

3) a decision has been issued to suspend the execution of the decision that forms the basis for the entry of the data of a foreigner in the list, or

4) the foreigner resides within the territory of the Republic of Poland on the basis of a certificate referred to in Article 170, or

5) there are circumstances referred to in Article 330(1)(1), (2) or (4).

2. The validity of an entry into the list shall be suspended until the date on which the circumstances justifying the suspension have ceased to exist.

3. The suspension of an entry in the list shall interrupt the duration of entry's validity.

Article 438. 1. The foreigner's data shall be included in the list for a period:

1) specified in a decision on imposing the return obligation on a foreigner if it was ordered therein to prohibit the re-entry into the territory of the Republic of Poland or to prohibit the entry into the territory of the Republic of Poland and other countries of the Schengen area;

2) of three years from the date of transfer of a foreigner to a third country on the basis of an international agreement on the transfer and acceptance of persons after detention because of border crossing in violation of legal regulations;

3) of five years from the end date of a prison sentence served on the basis of a conviction that represented the basis for entry of the data into the list if a foreigner was convicted to a prison sentence of more than three years;

4) of three years from the end date of a prison sentence served on the basis of a judgement that represented the basis for entry of the data into the list if a foreigner was convicted to a prison sentence of more than three years;

5) of three years from the date of entry into force of a judgement that represented the basis for entry of the data into the list if a foreigner if a foreigner was sentenced to pay a fine;

6) of a conditional suspension of a prison sentence from the date of entry into force of the judgement referred to in Article 435(1)(2) if a foreigner was convicted to a conditionally suspended prison sentence;

7) arising from international agreements that are applicable to the Republic of Poland and represent a basis for foreigner's entry into the list;

8) no longer than five years with an opportunity of renewal for additional periods none of which may exceed five years, in the case of entries in the list due to the fact that the entry or residence of a foreigner may be a threat to national defence or national security or the protection of public order and safety or the interests of the Republic of Poland.

2. The data of a foreigner shall be included in the list for the period referred to in paragraph 1, starting from the date:

1) of execution of a decision on imposing the return obligation;

2) on which the deadline for voluntary return referred to in a decision on imposing the return obligation on a foreigner has passed, in the absence of information on the execution of that decision;

3) of issue of a decision on imposing the return obligation on a foreigner if the decision does not specify the period for voluntary return.

3. In the case referred to in paragraph 2(2), when the Head of the Office has obtained information about the execution of a decision on imposing the return obligation on a foreigner that is the basis for the entry, the entry's validity period shall be adjusted so that the day of execution of that decision shall be the start date.

4. The data of a foreigner shall be removed from the list after the expiry of the periods referred to in paragraphs 1-3.

Article 439. 1. The list shall include the information about the legal and factual basis for an entry and the following data of a foreigner:

1) name(s) and surname, as well as other names and surnames if a foreigner uses or used them;

2) surname at birth;

3) parents' names and surnames and the mother's surname at birth;

4) date and place of birth;

5) sex;

6) citizenship;

7) place of residence;

8) series and number of the travel document.

2. The list may also include other foreigner's data or information referred to in Article 13, in particular a photograph of a foreigner and an image of his/her fingerprints.

Article 440. 1. Inclusion of data of a foreigner in the list, extension of the entry's validity period or deletion the data from the list shall be made by the Head of the Office, ex officio or upon request by one of the following bodies:

1) the minister of National Defence;

2) the minister competent for public finance;

3) the minister competent for foreign affairs;

4) the Commander-in-Chief of the Police;

5) the Commander-in-Chief of the Polish Border Guard;

6) the Head of Internal Security Agency;

7) the Head of the Foreign Intelligence Agency;

8) the Head of the Customs Service;

9) the President of the Institute of National Remembrance – the Chief Commission for the Prosecution of Crimes against the Polish Nation;

10) a Voivode.

2. Should the Head of the Office dismiss the application referred to in paragraph 1, the applicant may request the minister competent for internal affairs to examine the case.

3. While taking into account the request to examine the case, as referred to in paragraph 2, the minister competent for internal affairs shall order the Office of the Head to enter the data of a foreigner into the list, to renew the validity of an entry or to remove the data of a foreigner from the list.

Article 441. 1. A public prosecutor or governmental administration bodies shall provide the Head of the Office with the available information about the circumstances justifying the entry of the data of a foreigner into the list or the circumstances justifying the removal of the data from the list, the suspension or renewal of the period of validity of an entry along with a photograph of a foreigner in his/her possession.

2. The body that issued a decision on the basis of which:

1) the foreigner's data are to be entered into the list, or

2) the entry's validity is to be suspended, or

3) the foreigner's data are to be removed from the list

– shall submit this decision to the Head of the Office when it has become final and binding along with a photograph of a foreigner.

Article 442. 1. The court that has sentenced a foreigner in the Republic of Poland with a final judgment for an intentional offense or a tax offense to pay a fine or serve a prison sentence shall send the Head of the Office a copy of the final judgment in the case, as well as a copy of the ruling amending the judgment.

2. The court that has sentenced a foreigner on the basis of the judgment referred to in paragraph 1 to serve a conditionally suspended prison sentence shall send the Head of the Office a copy of the judgment.

3. The court that has passed a sentence on a conditional early release of a foreigner from a prison shall send the Head of the Office a copy of the judgment in the case.

4. The court referred to in paragraph 1 shall send the Head of the Office the information about the payment of fines if such a sentence was imposed.

5. The court referred to in paragraph 1 and 2 shall send the Head of the Office copies of documents confirming the identity of a foreigner if the court holds these documents.

Article 443. 1. The Head of the Office shall forward the data about the foreigner stored in the list to the Schengen Information System for the period for which they are stored in the list for the purposes of refusing an entry if the basis for storing the data in the list is constituted by:

a final and binding decision on imposing the return obligation on a foreigner, containing a prohibition on re-entry into the territory of the Republic of Poland and other Schengen states, or

a final judgment referred to in Article 435(1)(2)(b) or (c), or

recognition of the foreigner's entry into the territory of the Republic of Poland or his/her stay within that territory as undesirable because of the threat to national defence or national security or the protection of public safety and order or the possibility of infringement of the interest of the Republic of Poland, or

a transfer of a foreigner to a third country on the basis of an international agreement on the transfer and acceptance of persons after detaining a foreigner because of border crossing in violation of legal regulations, or

Article 77 Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families.

2. The data entered into the Schengen Information System shall be removed if the validity of the entry into the list referred to in Article 437 has been suspended until the circumstances justifying the suspension have ceased to exist.

3. After the validity period of suspension of the entry into the list has passed, foreigner's data shall be re-entered into the Schengen Information System for the purposes of refusing entry.

Article 444. 1. A foreigner whose data were included in the list or the Schengen Information System for the purposes of refusing entry shall have the right to submit a request to the Head of the Office:

1) to make available the information about the entry of his/her data into the list or the Schengen Information System for the purposes of refusing entry, about the validity period of the entry and the legal and factual basis of the entry;

2) to correct the data if they are incomplete, out-of-date or untrue;

3) to delete the data if they have been placed or stored in violation of the provisions of the Act.

2. The Head of the Office shall refuse to make information available to a foreigner about the factual basis for an entry if his/her data have been entered into the list or the Schengen Information System pursuant to Article 435(1)(4).

Article 445. The provisions of Chapter VII of the Code of Administrative Proceedings shall apply to the proceedings on the request referred to in Article 444(1).

Article 446. 1. A foreigner shall submit the request referred to in Article 444(1) using a form containing:

1) the foreigner's data or the information referred to in Article 13;

- 2) previous first name(s) of a foreigner;
- 3) series and number of the foreigner's travel document;
- 4) foreigner's place of residence;
- 5) mailing address of a foreigner within the territory of the Republic of Poland or the address of his/her proxy;
- 6) substantiation of the request in the cases referred to in Article 444(1)(2) and (3).

2. The Head of the Office shall examine the application referred to in Article 444(1) within 30 days of the date of receipt thereof.

3. The minister competent for internal affairs shall specify by way of ordinance the template of the form referred to in Article 444(1) while taking into account the need to enter the foreigner's data to the extent that they will be necessary for the examination of such a request and the necessity to assure efficiency of the proceedings in the case.

Article 447. 1. A foreigner shall have the right to inspect documents relating to the entry of his/her data in the list.

2. The right referred to in paragraph 1 shall not be vested in a foreigner when his/her data have been entered into the list pursuant to Article 435(1)(4).

3. Access to the documents relating to the entry of data in the list shall be provided to a foreigner at the Office.

4. Article 73 of the Code of Administrative Proceedings shall not apply to the inspection of the documents relating to the entry of the foreigner's data in the list.

Article 448. As far as the data to be entered into the Schengen Information System as concerned, the provisions of Article 444-447 shall apply only to the data of a foreigner entered by the Head of the Office for the purposes of refusing entry.

Chapter 3

National collection of registers, records and the list in the cases of foreigners

Article 449. 1. National collection of registers, records and the list in cases of foreigners shall be established and maintained by the Head of the Office in an ICT system.

2. National collection of registers, records and the list in the cases of foreigners shall consist of:

- 1) the registers referred to in Article 428(1)(1)(a) subparagraph 2(a)-(k) and (m), as well as subparagraph 3 and 6, with the exception of the registers kept by a consul and the minister competent for foreign affairs;
- 2) a record of invitations;
- 3) the list;

- 4) a register of cases for granting refugee status to foreigners, granting him/her subsidiary protection and granting assistance to foreigners applying for refugee status;
- 5) a register of cases on granting the asylum to foreigners;
- 6) a register of cases on granting a residence permit for humanitarian reasons to foreigners and a permit for tolerated stay;
- 7) a register of cases on granting temporary protection to foreigners;
- 8) a register of cases conducted pursuant to Council Regulation (EC) No 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (OJ L 050, 25.2.2003, p. 1; Special Polish Edition: Chapter 19, Volume 6, p. 109);
- 9) a register of residence of citizens of the European Union within the territory of the Republic of Poland;
- 10) a register of residence cards of a family member of a European Union citizen;
- 11) a register of documents that confirm that a long-term resident's EU residence permit has been granted;
- 12) a register of permanent residence cards of a family member of a European Union citizen;
- 13) registers of requests, issued rulings and decisions on:
 - a) the issue of a national visa for the purposes of repatriation,
 - b) provision of assistance to repatriates from the State budget,
 - c) recognition as a repatriate;
- 14) a record of people applying for a national visa for the purpose of repatriation and their family members who do not have a dwelling or a source of income within the territory of the Republic of Poland;
- 15) a central register of the data about the acquisition and loss of the Polish citizenship;
- 16) a register of certificates issued to a foreigner, as referred to in Article 170.

Article 450. 1. The data processed in the national collection of registers, records and the list in the foreigners' cases referred to in Article 449(2)(1)-(12) and (16) shall be made available to the following entities to the extent necessary to fulfil their statutory duties:

- 1) public administration bodies, courts of law and public prosecutors;
- 2) the Council for Refugees, the Police, the Polish Border Guard, the Prison Service, the Military Counterintelligence Service, the Military Intelligence Service, the Customs Service, the Military Police, the Internal Security Agency, the Foreign Intelligence Agency, the Government Protection Bureau, the State Labour Inspectorate, the Central Anti-Corruption Bureau, Head of the National Criminal Information Centre and the gmina (municipal) guard;

3) the authorities of fiscal control, fiscal intelligence authorities and the authorities of financial information.

2. The data processed in the national collection of registers, records and the list in the foreigners' cases referred to in Article 449(2)(1)-(12) and (16) shall be made available to:

1) state and local government organisational units – to the extent necessary for the performance of their public duties;

2) court bailiffs – to the extent necessary to carry out their enforcement proceedings;

3) Polish Red Cross – as far as the wanted persons are concerned;

4) enforcement authorities within the meaning of the Act of 17 June 1966 on enforcement proceedings in administration – as far as the conducted enforcement proceedings are concerned.

3. the entities referred to in paragraph 1 and 2 shall not be provided with the data in the form of fingerprints taken in order to issue a residence permit.

Article 451. 1. The data gathered in the national collection of registers, records and the list of the foreigners' cases referred to in Article 449(2)(1)-(12) and (16) may be made available to foreign entities in order to comply with the provisions of international agreements ratified by the Republic of Poland and in order to implement the act of law established by an international organisation whose member is the Republic of Poland.

2. The procedure and method for making the data gathered in the national collection of registers, records and a list of the cases of foreigners referred to in Article 449(2)(1)-(12) and (16) available to the entities referred to in paragraph 1 shall be defined by the international agreements ratified by the Republic of Poland, the acts of law established by an international organisation whose member is the Republic of Poland or agreements entered into by and between the competent ministries in the Member States of the European Union.

Article 452. 1. The data processed in the national collection of registers, records and the list in the foreigners' cases shall be made available to the entities referred to in Article 450(1) and (2) upon their request submitted using the form.

2. The authority that examines the request referred to in paragraph 1 shall refuse, by way of decision, to disclose the data if the scope of the data specified in the request does not match the extent referred to in Article 450(1) or (2).

3. The data processed in the national collection of registers, records and the list in the foreigners' cases shall be made available under the procedure referred to in paragraph 1 and 2 by:

1) the Head of the Office;

2) a voivode, the Minister of Internal Affairs, the Commander-in-Chief of the Polish Border Guard, the commanding officer of a Polish Border Guard unit, the commanding officer of a Polish Border Guard outpost, the Commander-in-Chief of the Police, a voivodeship commanding officer or a poviast Police commander to the extent of the records kept by them.

4. The minister competent for internal affairs shall specify by way of ordinance the template of the form for the request to make available the national collection of registers, records and the list in the foreigners' cases while taking into account the need to assure efficiency of the proceedings in the case.

Article 453. The data processed in the national collection of registers, records and the list in the foreigners' cases shall be made available to the entities referred to in Article 450(1) and (2) by means of telecommunications equipment, provided that they submit a one-time request in this regard, and the Head of the Office grants consent to it, and they meet all of the following conditions:

- 1) they have a properly protected telecommunications equipment or ICT systems designed for communication with the national collection of registers, records and the list in the foreigners' cases;
- 2) they have technical and organisational safeguards appropriate for the processing of personal data, in particular to prevent unauthorised access to the processing of personal data and the use of data contrary to the purpose of their acquisition;
- 3) they perform the tasks whose specifics or scope justify the acquisition of data in this way, or they run a business whose specifics or scope justify the acquisition of data in this way.

Article 454. 1. The Head of the Office shall grant consent to making available the data processed in the national collection of registers, records and the list of foreigners' cases to the entities referred to in Article 450 by means of telecommunications equipment, or shall refuse to grant such consent or shall withdraw it by way of decision.

2. The decision to revoke the consent for the making available the data processed in the national collection of registers, records and the list of the foreigners' cases by means of telecommunications equipment shall be immediately enforceable.

Article 455. 1. The Head of the Office may carry out a control of the entities that have access to the data processed in the national collection of registers, records and the list of the foreigners' cases by means of telecommunications equipment or ICT systems in so far as these entities meet the conditions referred to in Article 453.

2. An inspection shall be carried out at the seat of the entity undergoing a control and at the places and time of performance of its tasks, and if required so by the interests of controls, also on public holidays and beyond working hours.

3. The control shall be performed by an authorised employee of the Head of the Office on the basis of a personal authorisation and upon presentation of an identity card.

4. The entity undergoing a control shall be obliged to:

- 1) make available the following to the employee of the Office:
 - a) the documents that confirm the authorisation to process data,
 - b) they have a properly protected telecommunications equipment or ICT systems designed for communication with the national collection of registers, records and the list in the foreigners' cases in the context of access to data processed in the national collection of registers, records and the list of the foreigners' cases;

2) provide conditions for the performance of controls and the means necessary to carry it out, including free access to the premises.

5. An employee of the Office who conducts a control:

1) during a control may request the entity undergoing a control to produce documents, provide equipment or systems referred to in paragraph 4(1) and to provide conditions and means referred to in paragraph 4(2);

2) draw up a report on the conducted control.

Article 456. Should irregularities be detected in the functioning of the national collection of registers, records and the list of the foreigners' cases or its safeguards for the reasons attributable to the authorities that have access to this collection by means of telecommunications equipment or ICT systems, the Head of the Office may block access to the national collection of registers, records and the list of the foreigners' cases until the detected irregularities have been rectified.

Article 457. 1. The minister competent for internal affairs shall specify by way of an ordinance the following:

1) the method and procedure for the conduct of controls, for the use of the access to the data processed in the national collection of registers, records and the list of the foreigners' cases by means of telecommunications equipment or ICT systems;

2) the template of the authorisation referred to in paragraph 455(3);

3) the template of the report referred to in Article 455(5)(2).

2. In the regulation referred to in paragraph 1, the minister competent for internal affairs shall take into account the need to ensure the protection of the personal data processed in the national collection of registers, records and the list of foreigners' cases, as well as the safety requirements for the data processed in the system.

Article 458. The minister competent for internal affairs shall specify, by way of regulation, the procedure and method for allocation, modification and revocation of the rights for access to the national collection of registers, records and the list of the foreigners' cases by means of telecommunications equipment, as well as the template of the authorisation for the access to the national collection of registers, records and the list of foreigners' cases and for the use of data from the register, taking into account the need to ensure the safety of the processed data.

SECTION XI

Liability of the carrier

Article 459. 1. The carrier that intends to transfer a foreigner to the border by air or sea shall take all the necessary measures to ensure that a foreigner wishing to enter the territory of the Republic of Poland has a valid travel document authorising him/her to cross the border, a required visa or another valid document entitling him/her to enter this territory and to stay within it, a permit to enter another country or a residence permit in another country if such permits are required.

2. The obligation referred to in paragraph 1 shall also apply to carriers engaged in regular passenger transport services in international road transport, with the exception of border traffic.

Article 460. 1. The carrier that transferred a foreigner to the border by air, sea or land shall immediately transport him/her back to the border of the state from which he/she was brought at the request of a Polish Border Guard authority, and when it is not possible, to the country which issued the foreigner's travel document on the basis of which he/she travelled, or to any other country that ensures that it will accept him/her, provided that:

- 1) a foreigner was denied a permit to enter the territory of the Republic of Poland, or
- 2) the authorities of the country of destination or a country bordering on the territory of the Republic of Poland have refused the entry by a transit foreigner travelling through this territory, or the carrier who was supposed to transfer him/her to that country refused to perform the transfer.

2. Where the obligation referred to in paragraph 1 is impossible, the carrier shall assure other means of transport for a foreigner so that he/she will be able to immediately leave the territory of the Republic of Poland and shall bear the cost thereof.

3. The costs of the foreigner's stay within the territory of the Republic of Poland after the occurrence of the circumstances referred to in paragraph 1 until the date when he/she has left that territory shall be covered by the carrier.

Article 461. 1. A foreigner referred to in Article 460(1), by way of decision, may be:

- 1) ordered to stay at a given place until he/she has left the territory of the Republic of Poland, or
- 2) prohibited from leaving a ship, or
- 3) ordered to leave the territory of the Republic of Poland on board of the same aircraft on which he/she arrived, or
- 4) ordered to leave the territory of the Republic of Poland on board of an aircraft or ship other than the one on which he/she arrived.

2. The decision on the matters referred to in paragraph 1 shall be issued by the commanding officer of a Polish Border Guard outpost. The decision shall be immediately enforceable.

3. The commanding officer of a Polish Border Guard outpost may be appealed against to the Commander-in-Chief of the Polish Border Guard.

Article 462. 1. The carrier that, by air or sea, brought to the border a foreigner who does not have a valid travel document authorising him/her to cross the border, a required visa or another valid document authorising him/her to enter and stay within the territory of the Republic of Poland, a permit to enter another country or a residence permit in another country if such permits are required, shall be obliged to pay an administrative fine in an amount equivalent to EUR 3,000-5,000 for each imported person, with the proviso that the sum of the fine for a single importation of a group of persons must not exceed the equivalent of EUR 500,000.

2. The provision of paragraph 1 shall also apply to carriers engaged in regular passenger transport services in international road transport, with the exception of border traffic.

3. The provision of paragraph 1 shall not apply if a carrier:

- 1) has brought to the border a foreigner who has submitted an application for refugee status during the border control;
- 2) in spite of due diligence, he/she was not able to find out whether a foreigner has a valid travel document authorising him/her to cross the border, a required visa or another valid document authorising him/her to enter the territory of the Republic of Poland and stay within that territory, a permit to enter another country or a residence permit in another country.
4. Conversion of an amount in euro referred to in paragraph 1 into an equivalent in zlotys shall be done according to the average exchange rate announced by the National Bank of Poland for this currency on the issue date of the decision on the imposition of an administrative fine.
5. The administrative fine referred to in paragraph 1 shall be imposed on a carrier by way of a decision by the commanding officer of a Polish Border Guard outpost in which the foreigner was refused entry into the territory of the Republic of Poland.
6. The decision referred to in paragraph 5 may be appealed against to the Commander-in-Chief of the Polish Border Guard.
7. The deadline for payment of the administrative fine referred to in paragraph 1 shall amount to 14 days from the date on which the decision on the imposition of fine has become final and binding.
8. Interest shall be charged on the fines not paid within the deadline for each day of delay at the rate stipulated for tax arrears.
9. The amounts payable on the account of administrative fines referred to in paragraph 1 shall be subject to enforcement under the provisions of the Act of 17 June 1966 on the enforcement proceedings in administration.
10. Enforcement proceedings may be instituted without prior notification.
11. The commanding officer of the Polish Border Guard outpost that issued a decision referred to in paragraph 1 shall not issue a writ of execution if the premises in the case indicate that execution would be ineffective.
12. The administrative fine referred to in paragraph 1 shall become overdue after five years from the end of the calendar year in which the payment deadline has passed.

Article 463. 1. If the behaviour of a foreigner who was refused entry into the territory of the Republic of Poland justifies the supposition that the foreigner may pose a threat to the safety in international communication by land, air or sea, the transfer of the foreigner leaving the territory of the Republic of Poland to the border or an airport or a sea port of the state to which he/she is to be transferred shall be ensured by a competent commanding officer of a Polish Border Guard outpost:

- 1) ex officio;
- 2) at the request of an authorised representative of the carrier.
2. The transfer costs shall be covered by:
 - 1) the Polish Border Guard in the case referred to in paragraph 1(1);

2) the carrier in the case referred to in paragraph 1(2).

3. The costs of bringing a foreigner to the border or to an airport or a sea port of the state to which he/she is to be transferred shall include the costs directly related to the carriage and the cost of the services to eligible to the persons who transfer a foreigner on the account of business trips outside the country.

SECTION XII

Penal provisions

Article 464. A person who takes a travel document, a residence card, a Polish travel document for a foreigner, a temporary Polish travel document for a foreigner, a Polish identity document of a foreigner, a permit for tolerated stay in order to appropriate it or appropriates it or uses such a document shall be subject to a fine, a non-custodial sentence or a custodial sentence up to 2 years of prison.

Article 465. 1. Who:

- 1) resides within the territory of the Republic of Poland, and does not have a right to do so,
- 2) upon request of the competent authorities, fails to produce a valid document entitling him/her to stay within the territory of the Republic of Poland, if required,
- 3) upon request of the competent authorities fails to demonstrate the financial resources or a document certifying that he/she is able to obtain such funds in accordance with the law in order to cover:

the maintenance costs during the foreigner's stay within the territory of the Republic of Poland,

his/her return travel to the country of origin or residence,

transit through the territory of the Republic of Poland through a third country that will grant him/her a permit to enter that territory,

- 4) evades the obligation to replace or return a residence card, a Polish travel document for a foreigner, a Polish identity document for a foreigner or a permit for tolerated stay,
- 5) fails to submit a notification of loss of a residence card, a Polish travel document for a foreigner, a Polish identity document for a foreigner or a permit for tolerated stay within three days of the loss thereof,
- 6) fails to fulfil the obligation to leave the territory of the Republic of Poland within the period specified in a decision on imposing the return obligation on a foreigner or in a decision to extend the deadline for voluntary return,
- 7) fails to fulfil the obligation to report at specified intervals to the authority indicated in a decision to extend the deadline for voluntary return,
- 8) leaves the place of residence designated in the decision to extend the deadline for voluntary return,

9) has entered the territory of the Republic of Poland on the basis of a local border traffic permit and:

resides outside the border zone within which the holder of the permit is authorised to stay, or

has not left the territory of the Republic of Poland after the residence period specified in the permit has passed – shall be punishable by a fine.

2. Decisions in the cases relating to the acts referred to in paragraph 1 shall be taken under the procedure defined in the provisions of the Act of 24 August 2001 – the Code of Proceedings in Misdemeanour Offences (Dz.U. of 2013, item 395, 765 and 1247).

3. Penal order issued in the writ proceedings shall be immediately enforceable.

SECTION XIII

Amending, transitional and final provisions

Chapter 1

Amendments to existing regulations

Article 466. The Act of 24 June 1920 on acquisition of real estate property by foreigners (Dz.U. of 2004, No. 167, item 1758, as amended³⁰) shall be amended as follows:

1) Article 1a(2)(3) shall read as follows: “(3) the foreigner has a residence permit:

a) a temporary residence permit, except a permit granted under Article 176 and Article 181(1) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650), or

b) a permanent residence permit, or

c) a long-term resident’s EU residence permit”;

2) Subparagraphs 2 and 3 of Article 8(1) shall read as follows:

“(2) purchase of a real estate property by a foreigner who has resided within the territory of the Republic of Poland for at least five years since the award of a permanent residence permit or a long-term resident's EU residence permit; “(3) purchase of a real estate property by a foreigner who is a spouse of a Polish citizen who has resided within the territory of the Republic of Poland for at least two years since the award of a permanent residence permit or a long-term resident's EU residence permit, where the purchased property will in consequence become joint property of the spouses;”

Article 467. In the Act of 31 December 1959 on cemeteries and burial of the deceased (Dz.U. of 2011, No. 118, item 687 and No. 144, item 853 and Dz.U. of 2012, item 951), Article 10(5a) shall read as follows:

“5a. The minister competent for internal affairs shall specify, by way of regulation, the way of handling the remains of foreigners placed in a guarded centre or in a detention centre for foreigners, in

³⁰ Amendments to the consolidated text of the above-mentioned Act were promulgated in Dz.U. of 2005, No. 94, item 788 and No. 183, item 1538, Dz.U. of 2008, No. 180, item 1112 and No. 216, item 1367 and Dz.U. of 2011, No. 85, item 458.

particular the way notifying the persons referred to in paragraph 1 of the death of a foreigner, the entities issuing a permit to bury a corpse, the procedure for handling the corpses that will not be taken away and the method of covering the costs of a burial commissioned by a guarded centre or a detention centre for foreigners, guided by the need to respect the dignity of the deceased and by sanitary safety.”

Article 468. The Act of 10 April 1974 on population registration and identity cards (Dz.U. of 2006, No. 139, item 993, as amended³¹) shall be amended as follows:

1) in Article 26:

a) Paragraph 1 shall read as follows:

“1. A foreigner who registers his/her permanent residence shall provide the required registration data and a residence card issued upon granting a permanent residence permit, long-term resident’s EU residence permit, residence permits for humanitarian reasons, subsidiary protection or refugee status in the Republic of Poland; or a permit for tolerated stay; or a permanent residence permit, a long-term resident’s EU residence permit, a decision granting a refugee status in the Republic of Poland, subsidiary protection granted in the Republic of Poland, residence permits for humanitarian reasons or permits for tolerated stay.”,

b) Paragraph 3 shall read as follows:

“3. A foreigner who registers his/her temporary residence shall provide the required registration data and a visa, or, where the foreigner entered the country on the basis of an agreement abolishing or limiting the visa requirement or the foreigner stays in the Republic of Poland under Article 108(1)(2) or Article 206(1)(2) of the Act of 12 December 2013 on foreigners (Dz.U., item 2013) or on the basis of a stamp printed in the travel document, which confirms that the application for a long-term resident’s EU residence permit had been filed – the travel document, a temporary identity card, a residence card, a permit for tolerated stay or a temporary residence permit, a permanent residence permit, a long-term resident’s EU residence permit or a decision on granting a refugee status in the Republic of Poland, subsidiary protection in the Republic of Poland, a residence permit for humanitarian reasons or a permit for tolerated stay.”;

2) in Article 44a:

a) Paragraph 2(19) shall read as follows:

“(19) series and number of a residence card issued upon granting a permanent residence permit, long-term resident’s EU residence permit, subsidiary protection, a residence permits for humanitarian reasons or refugee status in the Republic of Poland; or a permit for tolerated stay; the date of issue of a residence card or a permit for tolerated stay; the expiry date and the designation of the body that issued the residence card or a permit for tolerated stay;”;

b) Paragraph 4(2) shall read as follows:

³¹ Amendments to the consolidated text of the above-mentioned Act were promulgated in Dz.U. of 2006, No. 144, item 1043, Dz.U. of 2007, No. 21, item 125, Dz.U. of 2008, No. 70, item 416, No. 171, item 1056, No. 195, item 1198 and No. 220, item 1414, Dz.U. of 2009, No. 22, item 120, No. 39, item 306, No. 69, item 595 and No. 223, item 1777, Dz.U. of 2010, No. 239, item 1593, Dz.U. of 2011, No. 204, item 1195 and Dz.U. of 2012, item 161, 921 and 1407.

“(2) series and number of a residence card issued upon granting a temporary residence permit, the date of issue thereof, the expiry date and the designation of the body that issued it.”.

Article 469. In the Act of 6 April 1990 on the Police (Dz. U. of 2011, No. 287, item 1687, as amended³²), Article 13(1a)(3) shall read as follows:

“(3) the maintenance, operation and development of the necessary infrastructure for the collection and processing of fingerprint data referred to in Article 428(1)(4) of the Act of 12 December 2013 on foreigners (Dz.U. item 1650) and Article 119(1)(6) of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (Dz.U. of 2012, item 680);”.

Article 470. The Act of 12 July 1990 on Polish Border Guard (Dz.U. of 2011, No. 116, item 675, as amended³³) shall be amended as follows:

(1) in Article 1:

(a) Paragraph 1 shall read as follows:

„1. The Polish Border Guard shall be a homogeneous, uniformed and armed formation intended for the protection of the state border, border traffic control and prevention and combating illegal migration.”,

b) in paragraph 2:

- Subparagraph 1 shall read as follows:

“(1) protection of the state border on land and sea;”,

- the following Subparagraph 2a shall be added after Subparagraph 2:

“(2a) prevention and combating of illegal migration by means of:

a) control in terms of compliance with the regulations on the entry into the territory of the Republic of Poland and stay in this territory by foreigners,

b) identification and analysis of migration threats,

c) combating the migration threats, including the crime related to illegal migration,

d) implementation, within its jurisdiction, of the tasks defined in the Act of 12 December 2013 on foreigners (Dz.U. item 1650),

e) co-operation with the bodies and entities competent for the granting of permits to foreigners to enter the territory of the Republic of Poland or stay within that territory, including the performance of operations at the request of these bodies and entities under the rules specified in separate provisions;”.

³² Amendments to the consolidated text of the above-mentioned Act were promulgated in Dz.U. of 2011, No. 217, item 1280 and No. 230, item 1371, Dz.U. of 2012, item 627, 664, 908, 951 and 1529 and Dz.U. of 2013, item 628, 675, 1351 and 1635.

³³ Amendments to the consolidated text of the above-mentioned Act were promulgated in Dz.U. of 2011, No. 117, item 677, No. 170, item 1015, No. 171, item 1016 and No. 230, item 1371, Dz.U. of 2012, item 627, 664, 769 and 951 and Dz.U. of 2013, item 628, 675, 829 and 1351.

- in Subparagraph 4:

- Point (d) shall read as follows:

“(d) the crimes and misdemeanour offences specified in the Act of 12 June 2013 and in the in the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (Dz. U. of 2012, item 680),”

- the semicolon in Point (i) shall be replaced with a comma, and the following Point (j) shall be added:

“(j) crimes specified in Article 189a of the Criminal Code and in Article 8 of the Act of 6 June 1997 – Provisions implementing the Criminal Code (Dz.U. No. 88, item 554, as amended³⁴);”

- Subparagraph 5c shall be repealed,

- Subparagraph 5d shall read as follows:

“(5d) co-operation with other bodies and services in the field of identification of threats of terrorism and counteracting these threats;”

- Subparagraph 9 shall read as follows:

“(9) the collection and processing of information in the field of protection of the state border, the border traffic control, prevention and combating of illegal migration and making it available to competent authorities of the State;”

c) Paragraph 3 shall read as follows:

“3. Polish Border Guard to the extent specified in paragraph 2 and 2a shall co-operate with competent authorities and institutions of the European Union and other countries.”

2) Article 3(1) shall read as follows:

“1. Commander-in-Chief of the Polish Border Guard shall be the central authority of the governmental administration subordinated to the minister competent for internal affairs.”

3) in Article 3a:

(a) Subparagraphs 1-3 shall read as follows:

“(1) management of the Polish Border Guard operations in the field of protection of the state border, border traffic control and prevention and combating illegal migration,

2) analysis of security threats to the state border and migration risks;

3) establishing the organisational regulations for the headquarters of Polish Border Guard units and the organisational units of the Polish Border Guard Headquarters, as well as establishing the statutes for Polish Border Guard training centres and the Polish Border Guard centres;”

³⁴ Amendments to the above-mentioned Act were promulgated in Dz.U. of 1997, No. 160, item 1083, Dz.U. of 1998, No. 113, item 715, Dz.U. of 2009, No. 141, item 1149 and No. 206, item 1589 and Dz.U. of 2010, No. 98, item 626.

b) Subparagraph 5 shall read as follows:

“(5) exercising supervision over the field authorities of the Polish Border Guard and over the Polish Border Guard training centres and the Polish Border Guard centres;”,

c) Subparagraph 8 shall read as follows:

“(8) co-operation with competent authorities and institutions of the European Union and authorities and institutions of other countries competent for the matters specified in Article 1(2) and (2a).”;

4) Paragraphs 4 and 5 of Article 6 shall read as follows:

“4. The Commander-in-Chief of the Polish Border Guard may, by way of ordinance, establish and abolish training centres of the Polish Border Guard and Polish Border Guard centres and determine their organisation and scope of operations.

5. The commanding officers of a Polish Border Guard training centre and a Polish Border Guard centre and their deputies shall be appointed and dismissed by the Commander-in-Chief of the Polish Border Guard. The commanding officers of a Polish Border Guard training centre and a Polish Border Guard centre shall be the superiors of all subordinate officers.”;

5) in Article 8a:

a) Paragraph 2 shall read as follows:

“2. The Polish Border Guard Support Fund, hereinafter referred to as “the Fund” shall consist of a central fund, funds of the Polish Border Guard units, Polish Border Guard training centres and Polish Border Guard centres.”,

b) In Paragraph 4, the following subparagraph 4 shall be added after subparagraph 3:

“(4) the commanding officers of the Polish Border Guard centres – shall be the income of the funds of Polish Border Guard centres.”,

c) In Paragraph 6, the following subparagraph 4 shall be added after subparagraph 3:

“(4) the commanding officers of the Polish Border Guard centres – as regards the funds of Polish Border Guard centres.”;

6) Subparagraphs 4 and 5 of Article 9(7) shall read as follows:

“(4) a detailed manner for conducting the operations ordered in accordance with Paragraph 1 by the competent national authorities;

“(5) the method and procedure for collection and processing of information in the field of protection of the state border, the border traffic control, prevention and combating of illegal migration;”;

7) in Article 9e(1):

a) Subparagraph 5 shall read as follows:

“(5) specified in Article 464 of the Act of 12 December 2013 on foreigners;”,

b) the following Subparagraph 6c shall be added after Subparagraph 6b:

“(6c) specified in Article 189a of the Criminal Code and in Article 8 of the Act of 6 June 1997 – Provisions implementing the Criminal Code,”;

8) In Article 9f(1), Subparagraph 2b shall be added after Subparagraph 2a to read as follows:

“(2b) specified in Article 189a of the Criminal Code and in Article 8 of the Act of 6 June 1997 – Provisions implementing the Criminal Code,”;

9) Article 10d(20) shall read as follows:

“20. As a result of the findings made in the course of the inspection of a Polish Border Guard authority with jurisdiction over the place of the control, it shall take further actions specified in the Act of 12 December 2013 on foreigners.”;

10) in Article 11

(a) in Paragraph 1:

- Subparagraph 5b shall read as follows: „(5b) transfer of:

a) the persons referred to in paragraph 5 to a Polish Border Guard competent authority, court of law or public prosecutor's office,

b) foreigners against whom proceedings are pending, as defined in the Act of 12 December 2013 on foreigners and the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland, and the ones placed in a guarded centre or in a detention centre for foreigners to a Polish Border Guard authority, a court of law, public prosecution, an organisational unit of the Police, a voivodes, the Head of the Office for Foreigners, diplomatic missions, consular offices, care and educations centres or treatment entities,

(c) foreigners:

- who were given a decision on imposing the return obligation subject to forced execution pursuant to Article 329 of the Act of 12 December 2013 on foreigners,

- who were refused the entry into the territory of the Republic of Poland, and there are the circumstances referred to in Article 463(1) the Act of 12 December 2013 on foreigners,

- who were given an expulsion decision subject to forced execution pursuant to Article 71(2) and (3) of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families (Dz.U., No. 144, item 1043, as amended³⁵),

- subject to transfer referred to in Article 41(2) of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland,

- to the border or to an airport or sea port of the state to which he/she is to be brought;”;

- the following Subparagraph 7a shall be added after Subparagraph 7:

³⁵ Amendments to the above-mentioned Act were promulgated in Dz.U. of 2007, No. 120, item 818, Dz.U. of 2008, No. 216, item 1367, Dz.U. of 2010, No. 81, item 531 and Dz.U. of 2011, No. 92, item 532.

“(7a) observing and recording, by technical means, the image of the premises of guarded centres, detention centres for foreigners or premises intended for detainees and other buildings and areas used by the Polish Border Guard – in order to ensure the safety of persons residing in them;”,

b) the following Paragraphs 2c and 2d shall be added after Paragraph 2b:

“2c. Activities referred to in paragraph 1(7a) must not be carried out in places intended for sanitary and cleaning purposes and in rooms for foreigners.

2d. The collected records of the image that are referred to in paragraph 1(7a) and contain evidence making it possible to institute criminal proceedings or proceedings on misdemeanour offences, disciplinary proceedings or likely to be used in proceedings under preparatory inquiries or evidence relevant to such pending proceedings shall be kept for a period of 30 days from the date of registration, and then destroyed.”,

c) the following Paragraph 5b shall be added after Paragraph 5a:

“5b. The minister competent for internal affairs shall specify, by way of regulation, the method of storage and destruction of image records referred to in the paragraph 1(7a) and the method of making them available to authorised entities, while taking into account the need for appropriate protection of the recorded image against loss, distortion or unauthorised disclosure.”;

11) Paragraphs 3 and 4 of Article 35 shall read as follows:

“3. In cases justified by extraordinary qualifications of an officer, the Commander-in-Chief of Polish Border Guards – ex officio or at the request of the commanding officer of a Polish Border Guard unit, of a Polish Border Guard training centre or a Polish Border Guard centre – may reduce the period of preparatory service of an officer or exempt him/her from that service.

4. In the event of a break in the performance of official duties for longer than three months, the Commander-in-Chief of the Polish Border Guard may – ex officio or at the request of the commanding officer of a Polish Border Guard unit, the commanding officer of a training centre, the commanding officer of a Polish Border Guard centre – extend the period of preparatory service of an officer.”;

12) Article 36(1) shall read as follows:

“1. The competence to appoint an officer for an official position, to delegate him/her to another position and to dismiss him/her from such a position shall be held by the superiors: the Commander-in-Chief of the Polish Border Guard, the commanding officers of Polish Border Guard units, the commanding officers of training centres, the commanding officers of Polish Border Guard centres.

13) Subparagraph 2 of Article 39b(2) shall read as follows:

“(2) a Polish Border Guard unit, a Polish Border Guard training centre or a Polish Border Guard centre shall be managed by the commanding officer of such a unit, training centre or centre.”;

14) Article 40a(3) shall read as follows:

“3. Referral referred to in paragraph 1 shall be based on an instruction of the Commander-in-Chief of the Polish Border Guard, the commanding officer of a Polish Border Guard unit, the commanding officer a Polish Border Guard training centre or the commanding officer a Polish Border Guard centre.

In case of an oral instruction, an officer shall receive a confirmation of issue of such an instruction in writing no later than three days from the date of issue thereof.”;

15) in Article 91a:

a) Paragraph 1 shall read as follows:

“1. The officers and employees of the Polish Border Guard shall be obliged to submit a financial disclosure statement, including the assets covered by the marital community property, when making or solving of an official relationship or an employment relationship, annually and upon request of the Commander-in-Chief of the Polish Border Guard, competent commanding officers of Polish Border Guard units, commanding officers of Polish Border Guard training centres or commanding officers of Polish Border Guard centres.”,

b) Paragraph 4 shall read as follows:

“4. The right to inspect the submitted financial disclosure statements shall be enjoyed by: the Commander-in-Chief of the Polish Border Guard, competent commanding officers of Polish Border Guard units, Polish Border Guard training centres or Polish Border Guard centres and the persons authorised by them in writing to the extent necessary to analyse the statements.”;

16) Subparagraph 1 of Article 136b(1) shall read as follows:

“(1) commanding officers of Polish Border Guard units, commanding officers of Polish Border Guard training centres, commanding officers of Polish Border Guard centres and heads of organisational units of the Headquarters;”.

Article 471. In the Act of 20 December 1990 on the social insurance of farmers (Dz.U. of 2013, No. 1403, item 1623), Article 1(1)(2) shall read as follows:

“(2) who reside within the territory of the Republic of Poland on the basis of a visa, a temporary residence permit, a permanent residence permit, a long-term resident's EU residence permit, a residence permit on humanitarian grounds, a permit for tolerated stay or in connection with the refugee status or subsidiary protection obtained in the Republic of Poland, or”.

Article 472. In the Act of 21 December 1990 on the profession of veterinarian and chambers of veterinary surgeons (Dz.U. of 2009, No. 93, item 767, as amended³⁶), Article 1a(3) shall read as follows:

“3. Whenever the Act refers to the nationals of European Union Member States, it shall be also understood as the members of their families within the meaning of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families (Dz.U. No. 144, item 1043, as amended³⁷) and third-country nationals holding a long-term resident's EU residence permit within the meaning of the Act of 12 December 2013 on foreigners (Dz.U. item 1650).”.

³⁶ Amendments to the consolidated text of the above-mentioned Act were promulgated in Dz.U. of 2010, No. 200, item 1326 and Dz.U. of 2013, item 779, 1247, 1261 and 1287.

³⁷ Amendments to the above-mentioned Act were promulgated in Dz.U. of 2007, No. 120, item 818, Dz.U. of 2008, No. 216, item 1367, Dz.U. of 2010, No. 81, item 531 and Dz.U. of 2011, No. 92, item 532.

Article 473. In the Act of 19 April 1991 on pharmaceutical chambers (Dz.U. of 2008, No. 136, item 856, as amended³⁸), Article 1a(1)(2) shall read as follows:

“(2) nationals of a Member State of the European Union – citizens of a Member State of the European Union and their family members within the meaning of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families (Dz.U. No. 144, item 1043, as amended³⁹), foreigners with long-term resident's EU residence permit referred to in the Act of 12 December 2013 on foreigners (Dz.U. item 1650), and Polish citizens who have obtained qualifications in a Member State of the European Union;”.

Article 474. In the Act of 7 September 1991 on the education system (Dz. U. of 2004, No. 256, item 2572, as amended⁴⁰), in Article 94a:

1) in paragraph 2:

a) the introduction to the enumeration shall read as follows:

“On the conditions for the Polish citizens, the education in public schools for adults, further education colleges, public arts schools, public institutions, public teacher training institutions and public colleges for social workers and continuing education in the form of qualifying vocational courses shall be used by:”.

b) Subparagraph 1 shall read as follows:

“(1) nationals of Member States of the European Union, a Member State of the European Free Trade Association (EFTA) – the parties to the Agreement on the European Economic Area or the Swiss Confederation, as well as their family members who have the right of residence or a permanent residence permit;”.

c) Subparagraph 3 shall read as follows:

“(3) persons who have been granted a permanent residence permit within the territory of the Republic of Poland;”.

d) the following Subparagraph 7a shall be added after Subparagraph 7:

“(7a) persons who have been granted a residence permit for humanitarian reasons or their family members;”.

³⁸ Amendments to the consolidated text of the above-mentioned Act were promulgated in Dz.U. of 2010, No. 107, item 679, Dz.U. of 2011, No. 113, item 657 and Dz.U. of 2013, item 779, 1245, 1247 and 1287.

³⁹ Amendments to the above-mentioned Act were promulgated in Dz.U. of 2007, No. 120, item 818, Dz.U. of 2008, No. 216, item 1367, Dz.U. of 2010, No. 81, item 531 and Dz.U. of 2011, No. 92, item 532.

⁴⁰ Amendments to the consolidated text of the above-mentioned Act were promulgated in Dz.U. of 2004, No. 273, item 2703 and No. 281, item 2781, Dz.U. of 2005, No. 17, item 141, No. 94, item 788, No. 122, item 1020, No. 131, item 1091, No. 167, item 1400 and No. 249, item 2104, Dz.U. of 2006, No. 144, item 1043, No. 208, item 1532 and No. 227, item 1658, Dz.U. of 2007, No. 42, item 273, No. 80, item 542, No. 115, item 791, No. 120, item 818, No. 180, item 1280 and No. 181, item 1292, Dz.U. of 2008, No. 70, item 416, No. 145, item 917, No. 216, item 1370 and No. 235, item 1618, Dz.U. of 2009, No. 6, item 33, No. 31, item 206, No. 56, item 458, No. 157, item 1241 and No. 219, item 1705, Dz.U. of 2010, No. 44, item 250, No. 54, item 320, No. 127, item 857 and No. 148, item 991, Dz.U. of 2011, No. 106, item 622, No. 112, item 654, No. 139, item 814, No. 149, item 887 and No. 205, item 1206, Dz.U. of 2012, item 941 and 979 and Dz.U. of 2013, item 87, 827, 1191, 1265 and 1317.

e) Subparagraphs 10 and 11 shall read as follows:

“(10) persons who have been granted a long-term resident’s EU residence permit within the territory of the Republic of Poland;

(11) persons who have been granted a temporary residence permit within the territory of the Republic of Poland due to a circumstance referred to in Article 127, Article 159(1), Article 176 or Article 186(1)(3) or (4) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650);”;

f) In Paragraph 12, the full stop shall be replaced with a semicolon, and following subparagraph 13 shall be added:

“(13) persons who have a residence card with an annotation “access to labour market”, a Schengen visa or a national visa issued for the purposes of performing work within the territory of the Republic of Poland,”;

2) Paragraph 2a(2) shall read as follows:

“(2) Subparagraphs 6, 7a, 8 and 12 – shall be considered to be the spouse and minor children of such unmarried persons and their dependents, and in the case of minors referred to in paragraphs 6 and 8, their ascendants of the whole blood or an adult responsible for a minor in accordance with the law applicable in the Republic of Poland.”;

3) Paragraph 3 shall read as follows:

“3. Persons who are not Polish citizens and are not listed in paragraph 2 may use the education in public schools for adults, further education colleges, public arts schools, public institutions, public teacher training institutions and public colleges for social workers and continuing education in the form of qualifying vocational courses:

(1) as a recipient of a scholarship granted by the minister competent for education;

2) as a recipient of a scholarship awarded by a school authority, a teacher training institution or an institution, by a school principal or a director of a teacher training institution or an institution;

3) on the conditions of payment.”;

4) the following Paragraph 3a shall be added after Paragraph 3:

“3a. The amount of remuneration for the use of education in public schools, institutions, teacher training institutions, colleges for social workers and for continuing education in the form of qualifying vocational courses referred to in paragraph 3(3) and the method of payment of fees shall be determined by the managing authority, taking into account the anticipated costs of education or the cost of provided services and the possibility of total or partial exemption from the payment.”;

5) Paragraph 6 shall read as follows:

„6. The minister competent for education, in consultation with the minister competent for culture and protection of national heritage, shall specify, by way of ordinance:

1) the conditions and the procedure for admission of persons who are not Polish citizens in public kindergartens, schools, including schools of arts, institutions, teacher training institutions and

for continuing education in the form of qualifying vocational courses, taking into account in particular the types of documents confirming the educational attainment and the health condition of those persons, as well as the method of their qualification for an appropriate grade or for an appropriate semester;

2) the method of organisation of additional Polish language classes, additional compensatory classes in the subjects of teaching and learning the language and culture of the country of origin, as referred to in paragraph 4 and 4b -5, including the number of hours of classes and the minimum number of people for whom education in the language and culture of the country of origin is to be arranged;

3) the amount of the scholarship for persons referred to in paragraph 3(1) and the cases in which the scholarship may be reduced or suspended, taking into account the amount of the scholarship of the President of the Council of Ministers referred to in the regulations issued pursuant to Article 90k.”.

Article 475. In the Act of 20 June 1992 on entitlements to concessionary travel with public means of transport (Dz.U. of 2012, item 1138 and Dz.U. of 2013, item 1421), Article 2 shall be amended as follows:

1) Paragraph 1(2a) shall read as follows:

“(2a) Polish Border Guard officers during the performance of official duties related to the prevention and counteracting of illegal migration, carried out at the communication routes of particular international importance;”;

2) Paragraph 2a shall read as follows:

“(2a) The right to the 100% concession for travels with public means of bus transport in regular, fast, accelerated and express communication based on single tickets shall be enjoyed by Polish Border Guard officers during the performance of official duties related to the prevention and counteracting of illegal migration, carried out at the communication routes of particular international importance.”.

Article 476. The Act of 5 December 1996 on the profession of a physician and dentist (Dz.U. of 2011, No. 277, item 1634, as amended⁴¹) shall be amended as follows:

(1) Article 3(3) shall read as follows:

“3. Whenever the Act refers to the nationals of European Union Member States, it shall be also understood as the members of their families within the meaning of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families (Dz.U. No. 144, item 1043, as amended⁴²) and third-country nationals holding a long-term resident's EU residence permit within the meaning of the Act of 12 December 2013 on foreigners (Dz.U. item 1650).”;

(2) Article 15(3e) shall read as follows:

⁴¹ Amendments to the consolidated text of the above-mentioned Act were promulgated in Dz.U. of 2011, No. 291, item 1707, Dz.U. of 2012, item 95 and 1456 and Dz.U. of 2013, item 1245, 1287 and 1645.

⁴² Amendments to the above-mentioned Act were promulgated in Dz.U. of 2007, No. 120, item 818, Dz.U. of 2008, No. 216, item 1367, Dz.U. of 2010, No. 81, item 531 and Dz.U. of 2011, No. 92, item 532.

“3e. A foreigner who is not a citizen of a Member State of the European Union and who within the territory of the Republic of Poland was granted a permanent residence permit or long-term resident's EU residence permit or who was granted the refugee status in the Republic of Poland, shall complete a postgraduate apprenticeship on the basis of the rules applicable to Polish citizens.”.

Article 477. In the Act of 6 June 1997 – the Code of Administrative Proceedings (Dz.U., No. 89, item 555, as amended⁴³), Article 611t(5)(2) shall be amended as follows:

“(2) the state of enforcement of the judgment to which the convicted will be deported after serving his/her sentence or release from prison on the basis of a final and binding decision on imposing the return obligation on a foreigner,”.

Article 478. In the Act of 17 July 1998 on student loans and credits (Dz.U. No. 108, item 685, as amended⁴⁴), in Article 6(3):

1) Subparagraph 1 shall read as follows:

“(1) foreigners who have been granted a permanent residence permit;”;

2) Subparagraphs 5-7 shall read as follows:

“(5) foreigners who have been granted a long-term resident’s EU residence permit in the territory of the Republic of Poland;

6) foreigners who have been granted a temporary residence permit within the territory of the Republic of Poland because of a circumstance referred to in Article 159(1) and Article 186(1)(3) or (4) of the Act of 12 December 2013 on foreigners (Dz.U. item 1650);

7) foreigners who have been granted subsidiary protection within the territory of the Republic of Poland;”.

Article 479. In the Act of 13 October 1998 on the social insurance system (Dz.U. of 2013, item 1442 and 1623), Article 50 shall be amended as follows:

⁴³ Amendments to the above-mentioned Act were promulgated in Dz.U. of 1999, No. 83, item 931, Dz.U. of 2000, No. 50, item 580, No. 62, item 717, No. 73, item 852 and No. 93, item 1027, Dz.U. of 2001, No. 98, item 1071 and No. 106, item 1149, Dz.U. of 2002, No. 74, item 676, Dz.U. of 2003, No. 17, item 155, No. 111, item 1061 and No. 130, item 1188, Dz.U. of 2004, No. 51, item 514, No. 69, item 626, No. 93, item 889, No. 240, item 2405 and No. 264, item 2641, Dz.U. of 2005, No. 10, item 70, No. 48, item 461, No. 77, item 680, No. 96, item 821, No. 141, item 1181, No. 143, item 1203, No. 163, item 1363, No. 169, item 1416 and No. 178, item 1479, Dz.U. of 2006, No. 15, item 118, No. 66, item 467, No. 95, item 659, No. 104, item 708 and 711, No. 141, item 1009 and 1013, No. 167, item 1192 and No. 226, item 1647 and 1648, Dz.U. of 2007, No. 20, item 116, No. 64, item 432, No. 80, item 539, No. 89, item 589, No. 99, item 664, No. 112, item 766, No. 123, item 849 and No. 128, item 903, Dz.U. of 2008, No. 27, item 162, No. 100, item 648, No. 107, item 686, No. 123, item 802, No. 182, item 1133, No. 208, item 1308, No. 214, item 1344, No. 225, item 1485, No. 234, item 1571 and No. 237, item 1651, Dz.U. of 2009, No. 8, item 39, No. 20, item 104, No. 28, item 171, No. 68, item 585, No. 85, item 716, No. 127, item 1051, No. 144, item 1178, No. 168, item 1323, No. 178, item 1375, No. 190, item 1474 and No. 206, item 1589, Dz.U. of 2010, No. 7, item 46, No. 98, item 626, No. 106, item 669, No. 122, item 826, No. 125, item 842, No. 182, item 1228 and No. 197, item 1307, Dz.U. of 2011, No. 48, item 245 and 246, No. 53, item 273, No. 112, item 654, No. 117, item 678, No. 142, item 829, No. 191, item 1135, No. 217, item 1280, No. 240, item 1430, 1431 and 1438 and No. 279, item 1645, Dz.U. of 2012, item 886, 1091, 1101, 1327, 1426, 1447 and 1529 and Dz.U. of 2013, item 480, 765, 849, 1247, 1262 and 1282.

⁴⁴ Amendments to the above-mentioned Act were promulgated in Dz.U. of 2000, No. 48, item 550, Dz.U. of 2004, No. 146, item 1546 and No. 152, item 1598, Dz.U. of 2005, No. 23, item 187 and No. 164, item 1365, Dz.U. of 2011, No. 84, item 455 and Dz.U. of 2013, item 1646.

(1) Paragraph 3 shall read as follows:

“3. The data collected in the account of an insured person, as referred to in Article 40, and in the account of a payer of contributions, as referred to in Article 45, may be made available to the courts of law, public prosecutors, tax control authorities, tax authorities, court bailiffs, enforcement authorities within the meaning of the Act of 17 June 1966 on the enforcement proceedings in administration (Dz.U. of 2012, item 1015, as amended⁴⁵), to the National Labour Inspectorate, the Polish Border Guard, social assistance centres, poviats family assistance centres, the Financial Supervision Commission and a voivode and the Head of the Office for Foreigners in the field of pending proceedings on the legalisation of stay of foreigners within the territory of the Republic of Poland, including the provisions relating to protection of personal data.”;

(2) Paragraph 9 shall read as follows:

“9. The data collected in the accounts, as referred to in paragraph 3, shall be made available free of charge to court of law, public prosecutors, tax control authorities, tax authorities, the State Labour Inspectorate, the Polish Border Guard, social assistance centres, poviats family assistance centres, the Financial Supervision Commission and a voivode and the Head of the Office for Foreigners in the field of pending proceedings on the legalisation of stay of foreigners within the territory of the Republic of Poland, as well as to a voivode, mayor or president of a city – to the extent necessary for the provision of family benefits.”.

Article 480. In the Act of 9 November 2000 on repatriation (Dz.U. of 2004, No. 53, item 532, as amended⁴⁶) shall be amended as follows:

1) Subparagraph (3) of Article 2 shall read as follows:

“(3) residence card – a document issued to a foreigner who was granted a temporary residence permit, a permanent residence permit, a European Union long-term residence permit, subsidiary protection, a residence permit for humanitarian reasons or a refugee status in the Republic of Poland.”;

2) the title of Section 2 shall read as follows:

“The acquisition of Polish citizenship through repatriation and award of a permanent residence permit within the territory of the Republic of Poland to the members of the immediate family of a repatriate”;

3) in Article 15:

a) Paragraph 1 shall read as follows:

“1. A spouse of an applicant who is not a person of Polish origin and intends to settle together with the applicant within the territory of the Republic of Poland shall be granted a permanent residence permit.”,

b) Paragraphs 3-5 shall read as follows:

⁴⁵ Amendments to the consolidated text of the above-mentioned Act were promulgated in Dz.U. of 2012, item 1166, 1342 and 1529 and Dz.U. of 2013, item 1289.

⁴⁶ Amendments to the consolidated text of the above-mentioned Act were promulgated in Dz.U. of 2005, No. 94, item 788, Dz.U. of 2006, No. 249, item 1828, Dz.U. of 2007, No. 120, item 818 and Dz.U. of 2008, No. 70, item 416 and No. 216, item 1367.

“3. An application for a permanent residence permit for a spouse of the applicant referred to in paragraph 1 and of the minor referred to in paragraph 2 shall be attached to an application for a national visa for the purpose of repatriation.

4. The Head of the Office for Foreigners, hereinafter referred to as the “Head of the Office”, shall grant or refuse the award of the permanent residence permit to the persons referred to in Paragraph 1 and 2 and shall issue a residence card.

5. The provisions of Section VI of the Act of 12 December 2013 on foreigners (Dz.U., item 1650) shall apply to the award of a permanent residence permit.

4) Subparagraph 1 of Article 16(4) shall read as follows:

“(4) stayed within the territory of the Republic of Poland on the basis of the permit referred to in Article 144 of the Act of 12 December 2013 on foreigners;”;

5) Subparagraph 2 of Article 32 shall read as follows:

“(2) the award of a permanent residence permit within the territory of the Republic of Poland to members of the immediate family of a repatriate.”;

6) Article 33(2) shall read as follows:

“2. The Head of the Office shall run the central register of applications, decisions and rulings issued in cases on granting a permanent residence permit within the territory of the Republic of Poland to the members of the immediate family of a repatriate.”;

7) Article 34 shall read as follows:

“Article 34. Articles 452-458 of the Act of 12 December 2013 on foreigners shall apply to the method and procedure of providing the data contained in the register referred to in Article 33.”.

Article 481. In the Act of 15 December 2000 on professional associations of architects, engineers and town planners (Dz.U. of 2013, item 932), Article 4a(2) shall be replaced to read as follows:

“2. Whenever the Act refers to the nationals of European Union Member States, it shall be understood both as the nationals of Member States referred to in Paragraph 1 and the members of their families within the meaning of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families (Dz.U. No. 144, item 1043, as amended⁴⁷) and third-country nationals holding a long-term resident's EU residence permit within the meaning of the Act of 12 December 2013 on foreigners (Dz.U. item 1650).”.

Article 482. In the Act of 11 September 2001 on patent agents (Dz.U. of 2011, No. 155, item 925), Article 2(1)(3)(b) shall read as follows:

“(b) third-country nationals holding a long-term resident's EU residence permit within the meaning of the provisions of the Act of 12 December 2013 on foreigners (Dz.U. item 1650);”.

⁴⁷ Amendments to the above-mentioned Act were promulgated in Dz.U. of 2007, No. 120, item 818, Dz.U. of 2008, No. 216, item 1367, Dz.U. of 2010, No. 81, item 531 and Dz.U. of 2011, No. 92, item 532.

Article 483. In the Act of 22 June 2001 on the conduct of business in the field of production and sale of explosives, weapons, ammunition and military or police technology (Dz.U. of 2012, item 1017), the third indent in Article 8(1)(1)(a) shall read as follows:

“– of another state if within the territory of the Republic of Poland he/she received a permanent residence permit or a long-term resident's EU residence permit or on the basis of reciprocity, unless international agreements ratified by the Republic of Poland provide otherwise,”.

Article 484. The Act of 13 June 2003 on granting protection to foreigners in the territory of the Republic of Poland (Dz. U. of 2012, item 680) shall be amended as follows:

(1) in Article 2:

a) subparagraph (1) shall read as follows:

“(1) detention centre for foreigners – a detention centre for foreigners within the meaning of the Act of 12 December 2013 on foreigners (Dz. U., item 1650);”;

b) subparagraph (4) shall read as follows:

“(4) foreigner – a foreigner within the meaning of the Act of 13 June 2003 on foreigners;”;

c) subparagraph (7) shall read as follows:

“(7) residence card – a document issued to a foreigner who was granted a temporary residence permit, a permanent residence permit, a long-term resident's EU residence permit, subsidiary protection, a stay permit for humanitarian reasons, or refugee status in the Republic of Poland;”;

d) subparagraph (10) shall read as follows:

“(10) guarded centre – a guarded centre within the meaning of the Act of 13 June 2003 on foreigners;”;

2) subparagraph (3) of Article 3(1) shall be repealed;

3) in Article 9:

a) subparagraph (1) shall read as follows:

“(1) the refugee status determination or the proceedings for granting asylum is in progress or completed;”;

b) subparagraph (3) shall read as follows:

“(3) the foreigner was granted or denied asylum;”;

4) Article 28(4) shall read as follows:

“(4) An applicant residing at a guarded centre or detention centre, remand centre or in prison files an application via the commanding officer of the Polish Border Guard unit or the

commanding officer of the Polish Border Guard outpost exercising its jurisdiction over the guarded centre, detention centre, remand centre or prison.”;

5) in Article 33:

a) subparagraphs (2) and (3) of paragraph 1 shall be repealed;

b) paragraph 2 shall read as follows:

“2. The requested authority shall record cancellation of the national visa in the travel documents of the applicant and the person on whose behalf the applicant is acting.”;

c) subparagraphs (2) and (3) of paragraph 3 shall be repealed;

d) paragraphs 4–10 shall read as follows:

“4. The Head of the Office may suspend the enforcement of the decision on imposing the return obligation until the day on which the applicant receives the final decision on refugee status, if it is in the legitimate interest of the party, it is not contrary to public interest and the filing of a further application did not occur to delay or disturb the enforcement of the decision on imposing the return obligation.

5. The application for suspension of enforcement of the decision on imposing the return obligation should justify the existence of a legitimate interest of the applicant in suspension of its enforcement.

6. The application referred to in paragraph 5 must be submitted via the requested authority, and if the decision on imposing the return obligation was issued after submission of another application for refugee status – directly to the Head of the Office.

7. The ruling suspending the enforcement of the decision on imposing the return obligation shall be issued within 5 days from forwarding the application by the requested authority or from receipt of the application submitted directly to the Head of the Office.

8. A party dissatisfied with the decision of the Head of the Office to suspend the decision on imposing the return obligation may apply to that body for reconsideration within 5 days of receipt of the decision.

9. The Head of the Office may reverse or revoke the suspension of the decision on imposing the return obligation at any time should the circumstances change.

10. The ruling suspending the decision on imposing the return obligation shall expire under law on the day of delivering to the foreigner the final decision in a refugee status determination procedure commenced upon a further application referred to in paragraph 4.”;

6) subparagraph (6) of Article 34(1) shall read as follows:

“(6) filed an application in order to delay or disturb the enforcement of the decision on imposing the return obligation,”;

7) Article 37(2) and (3) shall read as follows:

“2. The provision of paragraph 1(6) shall not apply if the foreigner filed a further application for refugee status, and the Head of the Office has not suspended the enforcement of the decision on imposing the return obligation.

3. The applicant who files the application during his/her stay in the territory of the Republic of Poland on the basis of a temporary residence permit or a permanent residence permit, is required to deposit the travel document with the Head of the Office on the day on which the temporary residence permit or the permanent residence permit expires or is revoked.”;

8) Article 38(3) shall read as follows:

„3. In the case of enforcement of the decision on imposing the return obligation or handing-over under Council Regulation (EC) No. 343/2003, the travel document shall be collected at the Polish Border Guard outpost or at the border of the country to which the person is to be expelled or handed over or at an airport or seaport of that country.”;

9) Article 45(1) shall read as follows:

“1. If the body conducting the proceedings plans to grant refugee status or subsidiary protection to a foreigner, it shall request the Head of the Internal Security Agency, and also other bodies, when necessary, for information on whether there are the circumstances relating to the applicant or the person on whose behalf the applicant is acting, as referred to in Article 19(1)(3) or Article 19(2) or Article 20(1)(2) or Article 20(2) or Article 20(3).”;

10) Article 48 shall read as follows:

“Article 48. When an applicant or a person on whose behalf the applicant is acting is denied refugee status, the decision shall also rule on granting subsidiary protection on the grounds referred to in Article 15, if the circumstances set out in Article 20 do not prevent it.”;

11) after Article 48, the following Article 48a shall be added:

“Article 48a. The authority which issued the decision on discontinuance of proceedings or denying refugee status or subsidiary protection to a foreigner shall notify the relevant Polish Border Guard authority which has jurisdiction over the place of stay of the foreigner, when the decision becomes final.”;

12) Article 49 shall be repealed;

13) Article 67(1) shall read as follows:

„1. An unaccompanied minor who was denied refugee status and subsidiary protection shall be placed in a care and education centre until the time when they are handed over to authorities or organisations of the country of origin whose statutory tasks cover minor-related matters.”;

14) in Article 70(2):

a) subparagraph (2) shall read as follows:

“(2) resides in the territory of the Republic of Poland under a stay permit for humanitarian reasons or a permit for tolerated stay,”

b) subparagraph (3) shall read as follows:

“(3) resides in the territory of the Republic of Poland under a temporary residence permit, permanent residence permit or a long-term resident’s EU residence permit;”;

15) subparagraph (4) of Article 72(1) shall read as follows:

“(4) preparation of a foreigner for independent life outside the centre, after receipt of the decision granting refugee status or the decision denying refugee status whilst granting subsidiary protection.”;

16) subparagraph (2) of Article 74(2) shall read as follows:

„(2) the deadline to fulfil the obligation to leave the territory of the Republic of Poland by a foreigner after issuing a decision denying refugee status or granting subsidiary protection;”;

17) in Article 75:

a) paragraph 1 shall read as follows:

“1. Assistance in voluntary return may be provided to a foreigner who:

1) was subject to a refugee status determination procedure, which resulted in a decision denying him/her refugee status or granting him/her subsidiary protection;

2) withdrew his application for refugee status.”;

b) the following paragraph 1a shall be added after paragraph 1:

„1a. A foreigner may again be provided with assistance in voluntary return no earlier than after 2 years since the day on which he/she left the territory of the Republic of Poland with assistance.”;

c) paragraph 2 shall read as follows:

„2. Assistance in voluntary return shall cover:

1) the foreigner’s travel costs;

2) administrative fees for obtaining a travel document and necessary visas and permits;

3) travel-related food costs;

- 4) travel-related medical care costs;
- 5) organisational costs of voluntary return by an entity whose statutory duties include organisation of voluntary returns.”;

(d) the following paragraph 3a shall be added after paragraph 3:

“3a. The application referred to in paragraph 3 shall be filed by a foreigner no later than before 30 days from the day when the decision denying him/her refugee status or granting subsidiary protection or the decision on discontinuance of the refugee status determination procedure has become final. If the deadline for filing the application is not observed, the Head of the Office shall disregard such a request.”;

18) The title of Chapter 6 of Section II shall read as follows:

“Detention of a foreigner and placing him in a guarded centre or detention centre for foreigners in a refugee status determination or subsidiary protection procedure”;

19) Article 88 shall read as follows:

“Article 88. 1. An applicant or a person on whose behalf the applicant is acting shall be placed in a guarded centre or a detention centre for foreigners in the cases referred to in Article 87, or if the foreigner does not meet obligations set out in the ruling on measures referred to in Article 88a(1).

2. Detention shall be applied to a foreigner when there is a risk that the foreigner is unwilling to abide by the rules of stay applicable in the guarded centre.

3. The provision of paragraph 1 shall not apply to:

an unaccompanied minor;

a foreigner whose mental and physical condition may constitute a presumption that he/she had been subjected to violence or is disabled, except where the foreigner’s behaviour endangers the safety, health or life of other foreigners staying at the centre or the staff of the centre or where it could endanger the foreigner’s life or health.”;

20) after Article 88, the following Article 88a and Article 88b shall be added:

“Article 88a. 1. The applicant or the person on whose behalf the applicant is acting shall not have to be placed in a guarded centre and, if such is the case, shall be obliged to:

- 1) report at specified intervals to the authority indicated in the ruling,
- 2) lodge a security deposit specified in the ruling, no lower than twice the amount of the minimum wage stipulated by minimum wage law,
- 3) residing at the place indicated in the ruling, until the decision on granting refugee status becomes final.

2. The ruling on measures referred to in paragraph 1 shall be issued by the Polish Border Guard authority which detained the applicant or the person on whose behalf the applicant is acting. The ruling may be appealed against to the relevant district court with jurisdiction over the Polish Border Guard authority which issued the ruling, within 7 days from receipt of the ruling. The court shall have 7 days to consider the appeal.

3. The ruling referred to in paragraph 2 may allow for one or more than one of the measures referred to in paragraph 1.

Article 88b. 1. The court shall issue a ruling to place the applicant or the person on whose behalf the applicant is acting in a guarded centre or in a detention centre for foreigners at the request of the Polish Border Guard authority which detained the applicant or the person on whose behalf the applicant is acting. The court shall issue the ruling after hearing the applicant or person on whose behalf the applicant is acting.

2. The court shall examine the possibility of implementing the measures referred to in Article 88a(1) while considering the request to place the applicant or the person on whose behalf the applicant is acting in a guarded centre.

3. The court shall issue a ruling on implementing the measures referred to in Article 88a(1). The ruling may be appealed against to the district court within 7 days from receipt of the ruling. The court shall have 7 days to consider the appeal.”;

21) Article 89 shall read as follows:

“Article 89. 1. The court shall issue a ruling to place the applicant or the person on whose behalf the applicant is acting in a guarded centre or in a detention centre for foreigners for a period of 30 to 60 days.

2. Where a foreigner residing at a guarded centre or a detention centre for foreigners has filed an application for refugee status as a consequence of the enforcement of the court ruling issued under the Act of 12 December 2013 on foreigners, the court may issue a ruling to extend the period of detention if it determines that the application was filed only to delay or disturb enforcement of the decision on imposing the return obligation.

3. In the case referred to in paragraph 2, the detention period shall be extended by 90 days from the day of filing the application for refugee status by the foreigner.

4. If the decision terminating the refugee status determination or granting subsidiary protection procedure, which granted neither refugee status nor subsidiary protection, was delivered to the applicant before the periods referred to in paragraphs 1–3, the detention period may be extended for a fixed period necessary to issue the final decision on that matter or to enforce the decision on imposing the return obligation.

5. The detention period referred to in paragraphs 1–4 shall not exceed 6 months.

6. The ruling to extend the detention period shall be issued at the request of the Polish Border Guard authority by the relevant district court with territorial jurisdiction over that authority.”;

22) paragraphs 1 and 2 of Article 89b shall read as follows:

“1. Except the cases referred to in Article 406(5) of the Act of 12 December 2013 on foreigners, a foreigner placed in a guarded centre or a detention centre for foreigners shall be released upon a decision of the Head of the Office.

2. The Head of the Office may issue a decision to release the foreigner from the guarded centre or the detention centre for foreigners, *ex officio* or at the request of the applicant, if collected evidence indicates that the applicant and the person on whose behalf the applicant is acting, is likely to meet conditions for granting refugee status, as defined in Article 13, or granting subsidiary protection, as defined in Article 15, and their stay in the territory of the Republic of Poland is not a threat to national defence or national security or public safety and order and there are no circumstances referred to in Article 19(1)(3) or Article 19(2) or Article 20(1)(2) or Article 20(2) or Article 20(3).”;

23) Article 89c shall read as follows:

“Article 89c. The applicant or the person on whose behalf the applicant is acting who is released from a guarded centre or a detention centre for foreigners upon the decision referred to in Article 89b(1) and (2), or not placed in a guarded centre or a detention centre for foreigners on grounds set out in Article 400 of the Act of 12 December 2013 on foreigners, may be ordered by decision of the Head of the Office to stay in a specified place of stay or a specified location not to be left without permission of the Head of the Office until the day on which the decision concerning the refugee status determination procedure becomes final, as well as to report at specified intervals to the authority indicated in the decision.”;

24) Article 89h shall be repealed;

25) in Article 89i:

a) the following paragraph 2a shall be added after paragraph 2:

„2a. After the expiry of a residence card issued upon granting refugee status or subsidiary protection, another residence card is issued for a period referred to in paragraphs 1 or 2, as applicable.”;

b) paragraph 4 shall read as follows:

“4. The travel document provided for in the Geneva Convention as well as the residence card are issued after collecting biometric data of the foreigner.”;

26) paragraph 2 of Article 89j shall be repealed;

27) paragraph 4 of Article 89k shall be repealed;

28) Article 89l shall read as follows:

“Article 89l. 1. A foreigner whose refugee status has been revoked shall return his/her residence card and travel document provided for in the Geneva Convention to the Head of the Office without delay, no later than within 14 days from the day when the relevant decision has become final.

2. A foreigner subject to return shall return the residence card to the commanding officer of the Polish Border Guard outpost when crossing the border.

3. A foreigner whose subsidiary protection has been revoked shall return his/her residence card to the Head of the Office without delay, no later than within 14 days from the day when the relevant decision has become final.

29) paragraph 2 of Article 90 shall be repealed;

30) paragraphs 2 and 3 of Article 91 shall be repealed;

31) Article 93(1) shall read as follows:

“1. The provisions of Article 23(1), Article 24, Article 25, Article 35, Article 37(1)(1), (2), (4) and (5) and Article 48(4) shall apply *mutatis mutandis* to the procedure for granting asylum.”;

32) paragraph 3 of Article 94 shall be repealed;

33) Article 95 shall be repealed;

34) Article 96 shall read as follows:

“Article 96. A foreigner who has been granted asylum may be subject to return by decision only after revoking his/her asylum.”;

35) Chapter 2 of Section III shall be repealed;

36) in Article 119(1):

a) subparagraph (2) shall be repealed,

b) subparagraph (4) shall be repealed,

c) point (c) of subparagraph (6) shall be repealed;

37) in Article 120:

a) subparagraph (2) shall read as follows:

“(2) in subparagraphs (3), (5) and (7) are maintained by the Head of the Office;”;

b) subparagraph (3) shall be repealed;

38) subparagraphs (2) and (4) of Article 121(1) shall be repealed;

39) after Article 121a, the following Article 121b shall be added:

“Article 121b. 1. A foreigner’s fingerprints taken to issue a travel document provided for in the Geneva Convention or a residence card shall be kept in the register referred to in Article 119(1)(1) until the Head of the Office confirms receipt of the travel document or residence card in the register.

2. Where a foreigner receives a decision denying him/her:

- 1) refugee status;
- 2) subsidiary protection;
- 3) a travel document provided for in the Geneva Convention or a residence card,
- 4) replacement of the documents referred to in subparagraph (3)

– the fingerprints shall be kept in the register referred to in Article 119(1)(1) until information on the relevant final decision is entered into the register.”;

40) Article 123(5) shall read as follows:

“5. Data processed in the registers referred to in Article 119(1)(1) and (5) shall be provided to the minister responsible for economy within the scope necessary to maintain the Central Register and Information on Business Activity.” ;

41) in Article 126(1), the comma in subparagraph (4) shall be deleted, and subparagraphs (5) and (6) shall be repealed;

42) The expression “detention for expulsion” used in Article 31(2), Article 70(2)(5), Article 89a and Article 89b(3), (4) shall be replaced with the expression “detention centre for foreigners”;

43) The expression “residence permit for a fixed period” used in Article 110(2)–(4), Article 117(3), Article 117b(4) and Article 118(3) shall be replaced with the expression “temporary residence permit”.

Article 485. In Article 2 of the Act of 27 June 2003 on social pension (Dz. U. of 2013, item 982):

1) subparagraph (2) shall read as follows:

“(2) foreigners residing and staying in the territory of the Republic of Poland under a permanent residence permit, long-term resident’s EU residence permit or temporary residence permit granted under the circumstances referred to in Article 127 or Article 186(1)(3) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650), or upon acquisition of refugee status or subsidiary protection in the Republic of Poland,”;

2) The following subparagraph (2a) shall be added after subparagraph (2):

“(2a) foreigners holding a residence card with an annotation “dostęp do rynku pracy” (“access to labour market”).”

Article 486. In Article 1(2)(2) of the Act of 28 November 2003 on family benefits (Dz. U. of 2013, items 1456 and 1623):

1) point (c) shall read as follows:

“(c) residing in the territory of the Republic of Poland under a permanent residence permit, long-term resident’s EU residence permit or temporary residence permit granted under the circumstances referred to in Article 127 or Article 186(1)(3) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650), or upon acquisition of refugee status or subsidiary protection in the Republic of Poland, if they reside in the territory of the Republic of Poland with their family members,”;

2) the following point (d) shall be added after point (c):

“(d) holding a residence card with an annotation “dostęp do rynku pracy” (“access to labour market”), except third-country nationals who have obtained a work permit in the territory of a Member State for a period of up to six months, third-country nationals admitted to a Member State for the purpose of undertaking study and third-country nationals allowed to work on the basis of a visa.

Article 487. The Act of 12 March 2004 on social assistance (Dz. U. of 2013, item 182, as amended⁴⁸) shall be amended as follows:

1) subparagraph (2) of Article 5 shall read as follows:

“(2) to foreigners residing and staying in the territory of the Republic of Poland:

“(a) under a permanent residence permit, long-term resident’s EU residence permit or temporary residence permit granted under the circumstances referred to in Article 186(1)(3) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650), or upon acquisition of refugee status or subsidiary protection in the Republic of Poland,”

“(b) upon a stay permit for humanitarian reasons or a permit for tolerated stay in the Republic of Poland, in the form of providing shelter, meals, necessary clothes and designated benefit;”;

2) Article 5a shall read as follows:

“Article 5a. Foreigners staying in the territory of the Republic of Poland shall be entitled to benefits in the form of psychological intervention, shelter, meals, necessary clothes and designated benefit upon the certificate referred to in Article 170 of the Act of 12 December 2013 on foreigners, or upon the permit referred to in Article 176 of the Act of 12 December 2013 on foreigners.”;

⁴⁸ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2012, items 1544 and 1548 and in Dz. U. of 2013, item 509.

3) subparagraph (8) of Article 18(1) shall read as follows:

“(8) granting and paying designated benefits and providing shelter, meals and necessary clothes for foreigners granted a stay permit for humanitarian reasons or a permit for tolerated stay in the Republic of Poland;”;

4) Article 47(3a) shall read as follows:

“3a. Foreigners referred to in Article 5a may be provided with shelter for the validity period of the certificate referred to in Article 170 of the Act of 12 December 2013 on foreigners, or until expiry of the temporary residence permit.”;

5) Article 101(3) shall read as follows:

“3. In exceptional cases justified by personal situation of the applicant, in urgent matters and in matters concerning foreigners granted a stay permit for humanitarian reasons or a permit for tolerated stay as well as foreigners referred to in Article 5a, territorial jurisdiction shall be exercised by the gmina where the applicant stays.”

Article 488. The Act of 20 April 2004 on employment promotion and labour market institutions (Dz. U. of 2013, item 674, as amended⁴⁹) shall be amended as follows:

(1) in Article 1:

a) in paragraph 3:

- in subparagraph (2):

— points (e)–(h) shall read as follows:

“(e) who have a permanent residence permit in the Republic of Poland,

f) who have a long-term resident’s EU residence permit in the Republic of Poland,

g) who have a temporary residence permit in the Republic of Poland granted due to the circumstances referred to in Article 127, Article 151(1) or (2), or Article 186(1)(3) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650),

h) who have a temporary residence permit in the Republic of Poland granted due to the circumstances referred to in Article 144, Article 159(1), Article 160, Article 161, Article 176, Article 186(1)(1),(2),(4) and (5) or Article 187 of the Act of 12 December 2013 on foreigners,”

— the following point (ha) shall be added after point (h):

⁴⁹ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2013, items 675, 829, 1291, 1623 and 1645.

“(ha) who have a temporary residence permit referred to in Article 114(1) or Article 126(1), or a visa issued for the purposes of performing work in the territory of the Republic of Poland,”,

— point (i) shall read as follows:

“(i) who have a stay permit for humanitarian reasons or a permit for tolerated stay in the Republic of Poland,”,

- subparagraph 4 shall read as follows:

“(4) foreigners – family members of Polish citizens, who were granted a temporary residence permit in the territory of the Republic of Poland or who, having filed the application for a temporary residence permit, permanent residence permit or long-term resident’s EU residence permit, stay in the territory of the Republic of Poland pursuant to Article 108(1)(2) or Article 206(1)(2) of the Act of 12 December 2013 on foreigners or on the basis of a stamp in the travel document, which confirms that the application for a long-term resident’s EU residence permit had been filed, if they had had a temporary residence permit directly before the application for a temporary residence permit, permanent residence permit or long-term resident’s EU residence permit.

- subparagraph (5) shall read as follows:

“(5) foreigners performing or intending to perform work in the territory of the Republic of Poland who are not listed in subparagraphs (2)–(4).”,

b) paragraph 4 shall read as follows:

“4. Pursuant to the principles defined herein, unemployment allowances and other unemployment benefits can be granted to persons referred to in paragraph 3(1), (2)(a)–(g), (i), (j) and (l) and paragraph 3(3) and (4).”,

(c) the following paragraphs 5 and 6 shall be added:

“5. Pursuant to the principles defined herein, benefits referred to in Chapter 15 can be granted to persons referred to in paragraph 3(2)(ha).”

6. “Pursuant to the principles defined herein, persons referred to in paragraph 3(2)(h) and (ha) may use labour market services except the right to benefits set out in Articles 41–42a.”;

(2) in Article 2(1):

a) the introduction to the enumeration in subparagraph (2) shall read as follows:

“an unemployed person is a person referred to in Article 1(3)(1) and Article 1(3)(2)(a)–(g), (i), (j) and (l) or a person referred to in Article 1(3)(2)(ha) who had been employed in the territory of the Republic of Poland for a continuous period of at least 6 months directly before registering as unemployed, or a person referred to in Article 1(3)(3) and (4) who is

unemployed and does not perform any other gainful work, and is able and ready to obtain full-time employment for a given profession or service, or perform any other gainful work, or is a disabled person able and ready to obtain at least half-time employment, who does not receive learning at any school, with the exception of adult learning and extramural examination in school curriculum or university extramural studies, and is registered in the poviats labour office appropriate for the temporary or permanent residential address and is seeking employment or any other gainful employment, if:”,

b) Point (e) of subparagraph (13) shall read as follows:

“(e) entrusting the performance of work to a foreigner without a work permit or a residence and work permit, where required, or entrusting the performance of work under different conditions or on a different position than specified in the work permit, without prejudice to Article 88f(1a) and (1b);”,

c) subparagraph 14 shall read as follows:

“(14) illegal work performed by a foreigner is any work performed by a foreigner who is not entitled to perform work within the meaning of Article 87(1) or is not exempted from the obligation to obtain a work permit under special provisions, or whose residence basis does not entitle to perform work, or who performs work under different conditions or on a different position than specified in the work permit, without prejudice to Article 88f(1a) and (1b), or who performs work under different conditions or on a different position than specified in the temporary residence permit referred to in Article 114, Article 126, Article 127 or Article 142(3), without prejudice to Article 119 and Article 135(3) of the Act of 12 December 2013 on foreigners, or who performs work without a contract of employment or a civil-law contract in a required form;”,

(3) subparagraph (17) of Article 9(1) shall read as follows:

“(17) examine and analyse the situation of the local labour market in relation to the proceedings for issuing a work permit to a foreigner or proceedings for granting a temporary residence permit referred to in Article 114 and Article 127 of the Act of 12 December 2013 on foreigners;”,

(4) in Article 10, the following paragraph 5a shall be added after paragraph 5:

„5a. The list of professions and types of work referred to in paragraph 4(1) shall be applied *mutatis mutandis* in proceedings for granting a temporary residence permit referred to in Article 114 and Article 127 of the Act of 12 December 2013 on foreigners.”;

5) In Article 33, the following paragraph 2a shall be added after paragraph 2:

„2a. The staroste shall notify the relevant Polish Border Guard authority or the voivode competent with respect to the place of residence of the foreigner of registering the person referred to in Article 1(3)(2)(ha) as unemployed.”;

6) in Article 43(1), a comma and the following subparagraph (9) shall be added after subparagraph (8):

“(9) is a foreigner referred to in Article 1(3)(2)(h) and (ha), without prejudice to Article 1(6)”;

(7) in Article 87:

(a) in paragraph 1:

– subparagraphs (3) and (4) shall read as follows:

“(3) holds a permanent residence permit in the Republic of Poland;

(4) holds a long-term resident’s EU residence permit in the Republic of Poland;”,

- the following subparagraph (4a) shall be added after subparagraph (4):

“(4a) holds a stay permit for humanitarian reasons;”,

- subparagraph (11a) shall read as follows:

“(11a) holds a temporary residence permit referred to in Article 114(1), Article 126, Article 127 or Article 142(3) of the Act of 12 December 2013 on foreigners, under conditions specified in that permit;”,

- in subparagraph (12):

— points (a)–(c) shall read as follows:

“(a) on the basis of a visa, with the exception of a visa issued for the purposes referred to in Article 60(1)(1), (22) or (23) of the Act of 12 December 2013 on foreigners, or

b) pursuant to Article 108(1)(2) or Article 206(1)(2) of the Act of 12 December 2013 on foreigners or on the basis of a stamp in the travel document, which confirms that the application for a long-term resident’s EU residence permit had been filed, if he/she had been entitled to perform work in the territory of the Republic of Poland directly before the application, or

c) on the basis of a temporary residence permit, with the exception of a permit granted due to circumstances referred to in Article 181(1) of the Act of 12 December 2013 on foreigners, or”,

— point (f) shall read as follows:

“(f) under visa-free regime.”,

(b) subparagraphs (1)–(5) of paragraph (2) shall read as follows:

“(1) who holds a temporary residence permit in the Republic of Poland granted due to the circumstances referred to in Article 144, Article 151(1) or (2), Article 158(2)(1) or (2), Article 161(2), Article 176 or Article 186(1)(3) or (4) of the Act of 12 December 2013 on foreigners;

(2) who is a spouse of a Polish citizen or a foreigner referred to in subparagraph (1) and paragraph (1)(1)–(6), who holds a temporary residence permit in the territory of the Republic of Poland granted on the basis of marriage;

(3) who is a descendant, referred to in Article 2(1)(8)(b), of a Polish citizen or a foreigner referred to in subparagraphs (1) and (2) and paragraph 1(1)–(6), who holds a temporary residence permit in the territory of the Republic of Poland;

(4) who holds a temporary residence permit in the territory of the Republic of Poland granted pursuant to Article 159(1) of the Act of 12 December 2013 on foreigners;

(5) who resides in the territory of the Republic of Poland pursuant to Article 108(1)(2) or Article 206(1)(2) of the Act of 12 December 2013 on foreigners or on the basis of a stamp in the travel document, which confirms that the application for a long-term resident’s EU residence permit had been filed, if he/she had been exempted from the obligation to obtain a work permit under subparagraphs (1)–(4) directly before the application.”;

(8) subparagraph 5 of Article 88 shall read as follows:

“(5) is employed by a foreign employer and is posted to the territory of the Republic of Poland for a period exceeding 30 days within subsequent 6 months for other purposes than indicated in subparagraphs (2)–(4).”;

(9) in Article 88a, the following paragraph 1a shall be added after paragraph 1:

„1a. The permit shall be extended by way of written application, filed no earlier than within 90 days and no later than within 30 days before the expiry of the permit by the entity entrusting the performance of work to the foreigner.”;

(10) in Article 88c:

(a) paragraph 1(2) shall read as follows:

“(2) the entity entrusting the performance of work to the foreigner supplemented the application for work permit with a note of the staroste competent with respect to the place of residence of the foreigner stating the impossibility of satisfying staffing needs of the employer based on registers of unemployed and seeking employment or stating a negative outcome of the recruitment organised for the employer, taking into account preferential access to the labour market for Polish citizens and foreigners referred to in Article 87(1)(1)–(11).”;

(b) the following paragraph 1a shall be added after paragraph 1:

„1a. Where the nature of work performed by the foreigner prevents indication of the main place of performance, the note referred to in paragraph 1(2) shall be issued by the staroste competent with respect to the place of residence of the employer entrusting work to the foreigner.”,

(c) paragraph 2 shall read as follows:

“2. The note referred to in paragraph 1(2) shall be issued by the staroste at the request of the employer entrusting the performance of work to the foreigner within a period of:

(1) no longer than 14 days from the date of submitting the job offer to the poviát labour office, if the analysis of registers of unemployed and seeking employment does not indicate that it is possible to organise recruitment;

(2) no longer than 21 days from the date of submitting the job offer if the recruitment process is organised among unemployed and seeking employment.”,

(d) paragraph 3(1) shall read as follows:

“(1) the profession or type of work entrusted to the foreigner is included in the list referred to in Article 10(4)(1) specified by the voivode competent with respect to the main place of performance;”,

(e) paragraph 10 shall read as follows:

“10. If the entity entrusting the performance of work is a temporary employment agency, and the work permit concerns temporary work performed by the foreigner, premises set out in paragraphs 1–3 shall apply.”,

(f) The following paragraph 11 shall be added:

“11. The provisions of paragraphs 1–3 shall apply to entities entrusting the performance of work to a foreigner which are not employers within the meaning of Article 2(1)(25).”;

(11) in Article 88f:

a) the following paragraphs 1a and 1b shall be added after paragraph 1:

„1a. A change of registered office or place of residence, name or legal form of the entity entrusting the performance of work to the foreigner, or a takeover of the employing establishment or its part by another employer shall not require a new work permit.

1b. An entity entrusting the performance of work to the foreigner may entrust him/her, for periods not exceeding the total of 30 days for a calendar year, with the performance of work of different nature or on a different position than specified in the work permit, if all other conditions specified in the work permit and requirements referred to in Article 88d are met. In such a case, obtaining a work permit specifying the new circumstances shall not be required.”,

b) paragraph 3 shall read as follows:

“3. At the request of another voivode, head of the competent tax office, a field organisational unit of the Social Insurance Institution, a consul, an authority of the National Labour Inspectorate, the Customs Service, the Polish Border Guard or the Police, the voivode shall hand over the copies of decisions on work permits and information referred to in Article 88i.”;

12) in Article 88g, the following paragraphs 1a and 1b shall be added after paragraph 1:

„1a. Where the deadline for the application for extension of the permit to work for the same employer and on the same position has been observed and the application is free from any formal defects or the formal defects have been remedied in due time, the foreigner’s work in the territory of the Republic of Poland shall be deemed legal from the day of the application until the day when the decision on the extension of the work permit becomes final.

“1b. The provision of paragraph 1a shall apply to a foreigner who has filed an application for a temporary residence permit, referred to in Article 114(1), Article 126(1), Article 127, Article 142(3) of the Act of 12 December 2013 on foreigners, in order to continue work performed under conditions specified in that permit or the temporary residence permit.”;

13) in Article 88h(1):

(a) subparagraph (1) shall read as follows:

“(1) include the conditions referred to in Article 88c, provided in the work permit, in the contract with the foreigner;”;

b) subparagraphs (4) and (5) shall read as follows:

“(4) hand over one copy of the relevant work permit to the foreigner;

(5) notify the foreigner of actions undertaken with regard to proceedings for granting or extending the work permit as well as decisions on granting, refusing or revoking the work permit;”;

c) subparagraph (7) shall be repealed;

14) Article 88i shall read as follows:

“Article 88i. The entity entrusting the foreigner with the performance of work shall notify the voivode who issued the work permit of the following circumstances within 7 days:

1) the foreigner commenced work of different nature or on different position than specified in the work permit, under conditions referred to in Article 88f(1b);

2) the registered office or place of residence, name or legal form of the entity entrusting the performance of work to the foreigner has been changed, or the employing establishment or its part has been taken over by another employer;

3) the employing establishment or its part has been transferred to another employer;

- 4) the person representing the employer, referred to in Article 88c(6)(3), has changed;
- 5) the foreigner did not undertake work within 3 months from the start validity date of the work permit;
- 6) the foreigner has halted work for a period exceeding 3 months;
- 7) the foreigner has finished work earlier than 3 months before the expiry of the work permit.”;

15) in Article 88j(1):

- a) subparagraphs (3) and (4) shall read as follows:

“(3) has been convicted by a final judgement for the offence referred to in Article 120(3)–(5);

(4) within two years from being convicted of the offence referred to in Article 120(1), the foreigner has been convicted again by a final judgement for a similar offence;”;

- b) subparagraph (7) shall read as follows:

“(7) is a natural person with a criminal record concerning an act referred to in Article 189a of the Act of 6 June 1997 – Criminal Code, or with a criminal record in another state under provisions of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, or is an entity managed and controlled by such a person;”;

- c) subparagraph (8) shall read as follows:

“(8) does not fulfil the obligations pursuant to Article 88h(4);”;

16) Article 88k shall read as follows:

“Article 88k. 1. The voivode shall revoke the permit if:

- 1) the circumstances or evidence related to the decision have changed;
- 2) the reason for granting the work permit has ceased;
- 3) the entity entrusting the performance or work has not fulfilled the obligations referred to in Article 88h(4);
- 4) the foreigner has ceased to meet the conditions referred to in Article 88d;
- 5) there are circumstances referred to in Article 88i(5) or (6);
- 6) the voivode has been notified that the foreigner’s data have been entered in the register of foreigners whose stay in the territory of the Republic of Poland is undesirable.

2. The provision of paragraph 1(1) shall not apply in the case referred to in Article 88f(1a) and (1b).

3. The provision of paragraph 1(1) shall not apply where the voivode has received the notification referred to in Article 88i(4).

4. The provisions of paragraph 1(5) shall not apply where the voivode has received the notification referred to in Article 88i(5) or (6), specifying the circumstances indicating that the permit would be used in accordance with its intended purpose as well as:

- 1) the reason for the failure to commence work, or
- 2) the reason for the suspension of work.”;

17) after Article 88k, the following Article 88l and Article 88m shall be added:

“Article 88l. Where the work permit has been revoked for a foreigner staying in the territory of the Republic of Poland on the basis of a national visa, the voivode notifies the Polish Border Guard authority of the revocation when the relevant decision becomes final.

Article 88m. The work permit expires under the statute on the day when the foreigner is granted a temporary residence and work permit due to the performance of work for the same employer and on the same position.”;

18) in Article 90:

a) in paragraph 1:

- subparagraph (6) shall read as follows:

“(6) templates of application forms for granting or extending the work permit, templates of declarations of the entity entrusting the foreigner with the performance of work on compliance with conditions set out in the statute and templates of permits and permit extensions which may include personal data of the foreigner and the entity entrusting the foreigner with the performance of work”,

- the unnumbered paragraph shall read as follows:

“– taking into account the nature of the situation referred to in Article 88, preferential access to the labour market for Polish citizens and foreigners referred to in Article 87(1)(1)–(11) and ensuring proper organisation of proceedings for granting and extending work permits.”,

b) paragraph 4 shall read as follows:

“4. The minister competent for labour shall specify, by way of ordinance, cases whereby entrusting a foreigner with the performance of work in the territory of the Republic of Poland is admissible without a work permit, taking into account the cases set out in international treaties and agreements and training or mentoring programmes carried out under European Union actions or other international aid schemes, Polish foreign policy, nature of a given profession and work, employment period, requirements concerning the entity entrusting the

performance or work and the special status which constituted the reason for granting the temporary residence permit in the territory of the Republic of Poland.”;

19) Article 120(6) shall read as follows:

“6. Any person who does not fulfil the obligation referred to in Article 88i shall be liable to a fine of at least PLN 100.”.

Article 489. In Article 13 of the Act of 2 July 2014 on freedom of business activity (Dz. U. of 2013, item 672, as amended⁵⁰):

1) paragraph 1 shall read as follows:

“1. Foreign persons from the European Union Member States and European Free Trade Association (EFTA) member countries – parties to the European Economic Area Agreement and foreign persons from non-contracting parties to the European Economic Area Agreement who may exercise the freedom of establishment under agreements concluded by the latter with the European Union and its Member States shall have the right to undertake and conduct business activity under the same conditions as Polish citizens.”;

2) paragraph 2(1) shall read as follows:

“(1) hold one of the following documents applicable in the Republic of Poland:

- a) a permanent residence permit,
- b) a long-term resident’s EU residence permit,
- c) a temporary residence permit granted due to circumstances referred to in Article 144 or Article 159(1), except circumstances referred to in paragraph(1)(1)(a)–(d), Article 186(1)(3) and (4) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650),
- d) a temporary residence permit granted to a family member staying in the territory of the Republic of Poland or staying in the said territory for family reunification within the meaning of Article 159(3) and (4) of the Act of 12 December 2013 on foreigners, persons referred to in Points (a), (b), (e) and (f),
- e) refugee status,
- f) subsidiary protection,
- g) a stay permit for humanitarian reasons or a permit for tolerated stay,
- h) a temporary residence permit, and they are married to a Polish citizen residing in the territory of the Republic of Poland,

⁵⁰ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2013, items 675, 983, 1036, 1238 and 1304.

i) a temporary residence permit for the purposes of pursuing business activity, granted due to the continuation of already conducted business activity on the basis of an entry into the CEIDG register,”;

3) paragraph 2a shall read as follows:

„2a. Citizens of countries other than those referred to in paragraph 1 who stay in the territory of the Republic of Poland pursuant to Article 108(1)(2) or Article 206(1)(2) of the Act of 12 December 2013 on foreigners or on the basis of a stamp in the travel document, which confirms that the application for a long-term resident’s EU residence permit had been filed, shall have the right to undertake and conduct business activity in the territory of the Republic of Poland under the same conditions as Polish citizens if they were entitled to undertake and conduct business activity under paragraph 2(1)(c),(d) and (h) immediately before the application for a temporary residence permit, permanent residence permit or long-term resident’s EU residence permit.”;

4) paragraph 4 and 5 shall read as follows:

“4. A family member, within the meaning of Article 159(3) of the Act of 12 December 2013 on foreigners, of foreign persons to whom the international agreements referred to in paragraph 3 apply, who holds a temporary residence permit, shall have the right to undertake and conduct business activity under the same conditions as those foreign persons.

5. A family member, within the meaning of Article 159(3) of the Act of 12 December 2013 on foreigners, who holds a temporary residence permit granted due to the entry into the territory of the Republic of Poland or staying in the territory for family reunification, shall have the right to undertake and conduct business activity within the same scope as foreigners who were granted a temporary residence permit and conduct business activity on the basis of an entry into the business activity register made according to the principle of reciprocity.”.

Article 490. The Act of 27 August 2004 on health care benefits financed from public funds (Dz. U. of 2008, No. 164, item 1027, as amended⁵¹) shall be amended as follows:

(1) in Article 3:

(a) in paragraph 1:

- subparagraph (2) shall read as follows:

⁵¹ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2008, No. 216, item 1367, No. 225, item 1486, No. 227, item 1505, No. 234, item 1570 and No. 237, item 1654, z 2009 No. 6, item 33, No. 22, item 120, No. 26, item 157, No. 38, item 299, No. 92, item 753, No. 97, item 800, No. 98, item 817, No. 111, item 918, No. 118, item 989, No. 157, item 1241, No. 161, item 1278 and No. 178, item 1374, Dz. U. of 2010, No. 50, item 301, No. 107, item 679, No. 125, item 842, No. 127, item 857, No. 165, item 1116, No. 182, item 1228, No. 205, item 1363, No. 225, item 1465, No. 238, item 1578 and No. 257, item 1723 and 1725, Dz. U. of 2011, No. 45, item 235, No. 73, item 390, No. 81, item 440, No. 106, item 622, No. 112, item 654, No. 113, item 657, No. 122, item 696, No. 138, item 808, No. 149, item 887, No. 171, item 1016, No. 205, item 1203 and No. 232, item 1378, Dz. U. of 2012, items 123, 1016, 1342 and 1548 and Dz. U. of 2013, items 154, 879, 983, 1290, 1623 and 1646.

“(2) non-citizens of an EU Member State or a European Free Trade Association (EFTA) member country – party to the Agreement on the European Economic Area or the Swiss Confederation, who stay in the territory of the Republic of Poland on the basis of a visa for the purpose of performing work, a temporary residence permit except the permit granted pursuant to Article 181(1) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650), a permanent residence permit, a long-term resident’s EU residence permit, a stay permit for humanitarian reasons, a permit for tolerated stay,”,

- the following subparagraph (2a) shall be added after subparagraph (2):

“(2a) persons who have been granted refugee status or subsidiary protection or temporary protection in the territory of the Republic of Poland,”,

(b) in paragraph 2:

- subparagraph (2) shall read as follows:

“(2) members of monastic orders and alumni of divinity and theological schools, postulants, novices and junior brothers or sisters and their counterparts who are not citizens of a European Union Member State or a European Free Trade Association (EFTA) member country – party to the Agreement on the European Economic Area, and who are not persons referred to in paragraph 1(3) and who stay in the territory of the Republic of Poland on the basis of a visa, a temporary residence permit, a permanent residence permit, a long-term resident’s EU residence permit, a stay permit for humanitarian reasons or a permit for tolerated stay,”,

- the following subparagraph (2a) shall be added after subparagraph (2):

“(2a) persons who have been granted refugee status or subsidiary protection or temporary protection in the territory of the Republic of Poland,”;

(2) Article 12(5) shall read as follows:

„(5) Article 415(1)(5) of the Act of 12 December 2013 on foreigners;”.

Article 491. In Article 43 of the Act of 27 July 2005 – Law on higher education (Dz. U. of 2012, item 572, as amended⁵²):

1) in paragraph 2:

a) subparagraph (1) shall read as follows:

“(1) foreigners who have been granted a permanent residence permit;”,

b) subparagraphs (5) and (6) shall read as follows:

⁵² Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2012, items 742 and 1544 and in Dz. U. of 2013, items 675, 829, 1005 and 1588.

“(5) foreigners who have been granted a long-term resident’s EU residence permit in the territory of the Republic of Poland;

(6) foreigners who have been granted a temporary residence permit in the territory of the Republic of Poland, due to the circumstances referred to in Article 127, Article 159(1) or Article 186(1)(3) or (4) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650);”;

2) the following paragraph 2a shall be added after paragraph 2:

„2a. Foreigners who have a residence card with an annotation “dostęp do rynku pracy” (“access to labour market”) or a Schengen visa or a national visa issued for the purpose of performing work in the territory of the Republic of Poland shall have the right to undertake and pursue payable higher education studies, a PhD course or other forms of learning as well as participate in scientific research and development. Such persons shall not be entitled to financial aid, special disability aid or grants.”.

Article 492. Article 21(3)(3) of the Act of 16 December 2005 on products of animal origin (Dz. U. of 2006, No. 17, item 127, as amended⁵³) shall read as follows:

“(3) a copy of a long-term resident’s EU resident permit granted by another European Union Member State, where the foreign applicant, within the meaning of the Act of 12 December 2013 on foreigners (Dz. U., item 1650), intends to conduct business activity under relevant provisions applicable in the territory of the Republic of Poland, or”.

Article 493. The Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families (Dz. U. No. 144, item 1043, as amended⁵⁴) shall be amended as follows:

(1) Article 2(8) shall read as follows:

“(8) visa – a visa within the meaning of the Act of 12 December 2012 on foreigners (Dz. U., item 1650);”;

2) after Article 2, the following Article 2a shall be added:

“Article 2a. 1. The following provisions shall apply to persons referred to in Article 1 hereof: provisions of Articles 49–56, provisions pursuant to Article 57(1), Article 336(3), Article 337(1), Article 338, provisions pursuant to Article 339(1), Articles 340–347, Articles 394–427, Article 428(1)(2)(a) and (k) and (1)(3)–(5), Article 429(1)(2), (7), (8) and (12) and 429(2), Article 430(1), (2)(5) and (7), 430(6) and (7), Article 432, Articles 439–441, Articles

⁵³ Amendments to the Act were published in Dz. U. of 2006, No. 171, item 1225, Dz. U. of 2007, No. 64, item 429, Dz. U. of 2008, No. 145, item 916 and No. 214, item 1346, Dz. U. of 2010, No. 47, item 278 and No. 81, item 528 and Dz. U. of 2011, No. 106, item 622.

⁵⁴ Amendments to the Act were published in Dz. U. of 2007, No. 120, item 818, Dz. U. of 2008, No. 216, item 1367, Dz. U. of 2010, No. 81, item 531 and Dz. U. of 2011, No. 92, item 532.

444–447, Articles 449–456 and provisions pursuant to Article 457(1) and Article 458 of the Act of 12 December 2013 on foreigners.

2. Furthermore, the following provisions shall apply to persons referred to in Article 1(4):

1) Article 3(20)–(22), Article 58, Article 59, Article 60(1)(17), Article 66(1)–(3), Articles 67–71, Article 73, Article 74, Article 77(1)(1), (2) and (3)(a) and (e) and 77(7) and (8), Article 78, Article 79, provisions pursuant to Article 80(1), Article 96, provisions pursuant to Article 97(1), Articles 360–379, Article 428(1)(2)(c), Article 429(1)(1), Article 443(1)(5) and Article 448 of the Act of 2013 on foreigners;

2) Article 34(5) of Regulation (EC) No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas (Visa Code) (OJ L 243, 15.09.2009, p. 1, as amended) with respect to cancellation or revocation of a national visa.”;

3) subparagraph (1) of Article 10(2) shall read as follows:

“(1) his/her entry falls within the period of his/her inclusion in the register of foreigners whose stay in the territory of the Republic of Poland is undesirable, maintained pursuant to Article 434 of the Act of 12 December 2013 on foreigners, hereinafter referred to as “the Register”, or”;

4) subparagraph (1) of Article 11(1) shall read as follows:

“(1) his/her entry falls within the period of his/her inclusion in the register, or”;

5) Article 15(1) shall read as follows:

“1. The following persons may stay in the territory of the Republic of Poland without needing to comply with the conditions of stay specified in the Chapter hereof:

1) an EU citizen and a family member who is not an EU citizen – for a period of up to 3 months;

2) an EU citizen who entered the territory to seek employment – for a period of no longer than 6 months, unless he/she demonstrates, after the expiry of that period, that he/she actively continues to seek employment and has genuine employment opportunities.”;

6) subparagraphs (2) and (3) of Article 16(1) shall read as follows:

“(2) has sufficient means of subsistence for himself/herself and his/her family members in the territory of the Republic of Poland so as not to become a burden on the social assistance system, and:

a) has public health insurance cover,

b) is entitled to health care benefits under the coordination rules within the meaning of Article 5(23) of the Act of 27 August 2004 on health care benefits financed from public funds (Dz. U. of 2008, No. 164, item 1027, as amended⁵⁵), or

c) has private health insurance covering any expenses that may arise during his/her stay in the territory of the Republic of Poland in connection with urgent medical attention or emergency hospital treatment, in which the insurer undertakes to cover the cost of health services provided to the insured directly to the entity providing such services based on the bill issued by that entity;

3) studies or undergoes vocational training in the Republic of Poland, and:

“(2) has sufficient means of subsistence for himself/herself and his/her family members in the territory of the Republic of Poland so as not to become a burden on the social assistance system,

b) has public health insurance cover,

c) is entitled to health care benefits under the coordination rules within the meaning of Article 5(23) of the Act of 27 August 2004 on health care benefits financed from public funds, or

d) has private health insurance covering any expenses that may arise during his/her stay in the territory of the Republic of Poland in connection with urgent medical attention or emergency hospital treatment, in which the insurer undertakes to cover the cost of health services provided to the insured directly to the entity providing such services based on the bill issued by that entity;

7) in Article 2, the existing text becomes paragraph 1 and the following paragraph 2 is added:

“2. The obligation referred to in paragraph 1 shall not apply to an EU citizen who has the right to stay under circumstances referred to in Article 15(1)(2).”;

8) in Article 31:

a) the following paragraph 1a shall be added after paragraph 1:

“1a. The provision of paragraph 1 shall not apply to:

⁵⁵ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2008, No. 216, item 1367, No. 225, item 1486, No. 227, item 1505, No. 234, item 1570 and No. 237, item 1654, Dz. U. of 2009 , No. 6, item 33, No. 22, item 120, No. 26, item 157, No. 38, item 299, No. 92, item 753, No. 97, item 800, No. 98, item 817, No. 111, item 918, No. 118, item 989, No. 157, item 1241, No. 161, item 1278 and No. 178, item 1374, Dz. U. of 2010 , No. 50, item 301, No. 107, item 679, No. 125, item 842, No. 127, item 857, No. 165, item 1116, No. 182, item 1228, No. 205, item 1363, No. 225, item 1465, No. 238, item 1578 and No. 257, item 1723 and 1725, Dz. U. of 2011 , No. 45, item 235, No. 73, item 390, No. 81, item 440, No. 106, item 622, No. 112, item 654, No. 113, item 657, No. 122, item 696, No. 138, item 808, No. 149, item 887, No. 171, item 1016, No. 205, item 1203 and No. 232, item 1378, Dz. U. of 2012, item 123, 1016, 1342 and 1548 and Dz. U. of 2013, item 154, 879, 983, 1290, 1623, 1646 and 1650.

1) an EU citizen who is a family member of the EU citizen or the citizen of the Republic of Poland other than the one referred to in Article 2(4) who joins him/her or stays with him/her in the territory of the Republic of Poland due to:

a) economic dependence on him/her or living with him/her in a household in the country from which the EU citizen applying for the registration of stay has arrived, or

b) a serious medical condition requiring personal care provided by the EU citizen or the citizen of the Republic of Poland whom that citizen joins or with whom he/she stays in the territory of the Republic of Poland;

2) a foreigner living family life within the meaning of the Convention for the Protection of Human Right and Fundamental Freedoms signed in Rome on 4 November 1950 (Dz. U. of 1993, No. 61, item 284, as amended⁵⁶) with the EU citizen or the citizen of the Republic of Poland, whom that citizen joins or with whom he/she stays in the territory of the Republic of Poland.”,

b) The following paragraph 4 shall be added:

“4. In the case referred to in paragraph 1a(2), the authority conducting the proceedings for registration of stay of an EU citizen shall determine, in particular, whether the bonds of that citizen with the EU citizen or the citizen of the Republic of Poland whom that citizen joins or with whom he/she stays in the territory of the Republic of Poland are genuine and permanent.”;

9) in Article 73, the existing text becomes paragraph 1 and the following paragraphs 2–4 shall be added:

“2. The decision on expulsion may be passed by the authorities to each other through a device capable of reading and writing character letters on paper or by means of telecommunications networks and may be delivered to an EU citizen or a family member who is not an EU citizen in the form obtained as a result of such transmission.

3. The voivode shall record issuing the decision on expulsion in the travel document of an EU citizen or a family member who is not an EU citizen and shall forthwith give notification thereof to the authority which made the request to issue the decision.

4. In the case of delivery of the decision on expulsion in the form referred to in paragraph 2, the Polish Border Guard authority that enforces this decision shall register the fact that it has been issued in the foreigner’s travel document.” ;

10) after Article 73, the following Article 73a and Article 73b shall be added:

⁵⁶ Amendments to the Act were published in Dz. U. of 1995, No. 36, items 175, 176 and 177, Dz. U. of 1998, No. 147, item 962, Dz. U. of 2001, No. 23, item 266, Dz. U. of 2003, No. 42, item 364 and Dz. U. of 2010, No. 90, item 587.

“Article 73a. 1. The authority that made a request to issue the decision on expulsion of an EU citizen or a family member who is not an EU citizen, or the voivodeship Police commander competent with regard to the office of the voivode who has issued the decision at the request of the Minister of National Defence or *ex officio*, shall take fingerprints and a photograph of the EU citizen or the family member who is not an EU citizen.

2. Fingerprints are taken by means of fingerprint cards or a device for taking fingerprints electronically.

3. The authority which has taken the fingerprints shall hand over their image, personal data of the EU citizen or the family member who is not an EU citizen and data referred to in Article 430(6) of the Act of 12 December 2013 on foreigners to the Commander-in-Chief of the Police.

Article 73b. 1. The decision on expulsion of a minor EU citizen or a family member who is not an EU citizen to the country of origin or to another country shall be enforced if the foreigner is provided with parental custody, custody of other adults or care institutions in the country to which he/she is expelled, as defined with the standards set out in the Convention on the Rights of the Child, adopted by the United Nations General Assembly on 20 November 1989 (Dz. U. of 1991, No. 120, item 526, Dz. U. of 2000, No. 2, item 11, and Dz. U. of 2013, item 677).

2. A minor EU citizen or a family member who is not an EU citizen may be expelled only under custody of a legal representative, unless the decision on expulsion is enforced in such a way that the minor is transferred to a legal representative or a representative of relevant authorities of the country to which the minor is expelled.”;

11) Article 74 shall read as follows:

“Article 74. 1. Forced execution of the decision on imposing the return obligation from the territory of the Republic of Poland shall consist in bringing an EU citizen or a family member who is not an EU citizen to the border or to an airport or sea port of the state to which he/she is to be transferred.

2. The act of bringing an EU citizen or a family member who is not an EU citizen:

1) to the border – shall be enforced by the commanding officer of the Polish Border Guard unit or the commanding officer of a Polish Border Guard outpost with jurisdiction for the place of residence of the EU citizen or a family member who is not an EU citizen;

2) from the border to an airport or sea port of the state to which they are to be returned – shall be enforced by the Commander-in-Chief of the Polish Border Guard or the commanding officer of the Polish Border Guard unit with jurisdiction for the place where the EU citizen or a family member who is not an EU citizen will cross the border.

3. The commanding officer of the Polish Border Guard outpost with jurisdiction for the place where the EU citizen or a family member who is not an EU citizen crosses the

border shall record the date of leaving the territory of the Republic of Poland by the EU citizen or a family member who is not an EU citizen in the register referred to in Article 428(1)(2)(k) of the Act of 12 December 2013 on foreigners.

4. The voivode who issued the decision on expulsion shall notify the gmina authority competent for the place of permanent residence or temporary residence for a period of over 3 months of an EU citizen or a family member who is not an EU citizen of his/her leaving the territory of the Republic of Poland upon enforcement of the decision on expulsion.”;

12) after Article 74, the following Article 74a and Article 74b shall be added:

“Article 74a. 1. The Polish Border Guard authority competent for forced execution of the decision on expulsion of an EU citizen or a family member who is not an EU citizen from the territory of the Republic of Poland shall determine, by way of decision, the costs of issuance and forced execution of the decision on expulsion, the entities bound to cover those costs as well as the maturity date and the method of payment.

2. The decision referred to in paragraph 1 shall be immediately enforceable.

3. The decision referred to in paragraph 1 may be appealed against to the Commander-in-Chief of the Polish Border Guard.

Article 74b. The minister competent for internal affairs shall specify the following by way of an ordinance:

1) the wording of the application for the decision on expulsion of an EU citizen or a family member who is not an EU citizen, taking into account the need to ensure efficiency and regularity of the proceedings, in particular the need to obtain information necessary to issue a decision on expulsion;

2) the method of recording the decision on expulsion in the travel document, taking into consideration the provision of a means to determine during travel document checks of an EU citizen or a family member who is not an EU citizen whether such a decision was taken.”.

Article 494. The Act of 22 July 2006 on animal feed (Dz. U., No. 144, item 1045, as amended⁵⁷) shall be amended as follows:

1) subparagraph (3) of Article 10(3) shall read as follows:

“(3) a copy of a long-term resident’s EU resident permit granted by another European Union Member State, where the foreign applicant, within the meaning of the provisions regarding foreigners, intends to conduct business activity under relevant provisions applicable in the Republic of Poland, or”.

2) subparagraph (4) of Article 20(4) shall read as follows:

⁵⁷ Amendments to the Act were promulgated in Dz. U. of 2008, No. 144, item 899, Dz. U. of 2009, No. 18, item 97, Dz. U. of 2010, No. 47, item 278, No. 60, item 372 and No. 230, item 1511, Dz. U. of 2011, No. 106, item 622 and Dz. U. of 2012, item 1007.

“(4) a copy of a long-term resident’s EU resident permit granted by another European Union Member State, where the foreigner applicant, within the meaning of the provisions regarding foreigners, intends to conduct business activity under relevant provisions applicable in the Republic of Poland, or”.

Article 495. The Act of 16 November 2006 on stamp duty (Dz. U. of 2012, item 1282, as amended⁵⁸) shall be amended as follows:

1) point (k) of Article 2(1)(1) shall read as follows:

“(k) granting refugee status, asylum, residence permit for humanitarian reasons, a permit for tolerated stay, or temporary protection,”;

2) in the Annex thereto:

a) in paragraph 21 of Part II, the following subparagraph (15) shall be added in column (4):

“(15) a certificate confirming that the foreigner is presumed to be a victim of human trafficking”;

b) in Part III:

– paragraph 2 shall read as follows:

	2. Temporary residence permit, except a permit granted pursuant to Article 181(1) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650)	PLN 340	1) permit referred to in Article 176 of the Act of 12 December 2013 on foreigners 2) permit granted to a foreigner under temporary protection
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- b) paragraph 2a in column (2) shall read as follows:

“2a. The permit referred to in Article 181(1) of the Act of 12 December 2013 on foreigners granted under:

1) subparagraphs (1) and (3)

2) subparagraph (2)”;

- the following paragraph 2b shall be added after paragraph 2a:

⁵⁸ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2012, items 1448 and 1512 and Dz. U. of 2013, items 21 and 455.

2b. The permit referred to in Article 114(1) and 127 of the Act of 12 December 2013 on foreigners	PLN 440	
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- paragraph 3 in column (2) shall read as follows: “3. Permanent residence permit”,
- paragraph 4 in column (2) shall read as follows:
“4. Long-term resident’s EU residence permit”,
- In column (4), subparagraph (14) of paragraph 44 shall be repealed;

Article 496. In Article 3(1) of the Act of 24 August 2007 on the participation of the Republic of Poland in the Schengen Information System and the Visa Information System (Dz. U., No. 165, item 1170, as amended⁵⁹):

- 1) subparagraph (4) shall read as follows:

„(4) a foreigner referred to in Article 443 of the Act of 12 December 2013 on foreigners (Dz. U., item 1650), shall be granted to the Head of the Office for Foreigners;”;

- 2) subparagraph (7) shall read as follows:

“(7) objects which are to be confiscated or which are to be confiscated with the intent to be used as evidence in criminal proceedings or criminal proceedings in relation to fiscal offences shall be granted to the minister competent for internal affairs, the Police, the Polish Border Guard, the Internal Security Agency, the Military Gendarmerie, the Central Anti-Corruption Bureau, the Customs Office, voivodes, the Head of the Office for Foreigners, fiscal audit authorities, the Head of the Maritime Office, the court, public prosecutor’s office or tax offices appointed under the procedure set out in Article 3a.”.

Article 497. The Act of 7 September 2007 on Karta Polaka (Pole’s Card) (Dz. U., No. 180, item 1280, as amended⁶⁰) shall be amended as follows:

- 1) Article 2(4) shall read as follows:

“4. Pole’s Card may be granted only to a person without Polish citizenship or permanent residence permit in the territory of the Republic of Poland.”

- 2) Article 17(5) shall read as follows:

“5. Pole’s Card shall be no longer valid upon acquisition of Polish citizenship or a permanent residence permit in the territory of the Republic of Poland.”;

⁵⁹ Amendments to the Act were published in Dz. U. of 2008, No. 195, item 1198 and No. 216, item 1367 and Dz. U. of 2010, No. 41, item 233, No. 81, item 531 and No. 239, item 1593.

⁶⁰ Amendments to the Act were promulgated in Dz. U. of 2008, No. 52, item 305, No. 214, item 1348 and No. 216, item 1367 and Dz. U. of 2011, No. 131, item 764.

3) subparagraph (4) of Article 19 shall read as follows:

“(4) the applicant acquired Polish citizenship or was granted a permanent residence permit in the territory of the Republic of Poland;”.

Article 498. Point (c) of Article 1a(1)(2) of the Act of 7 September 2007 on assistance to the persons entitled to maintenance (Dz. U. of 2012, item 1228 and 1548) shall read as follows:

“(c) residing in the territory of the Republic of Poland under a permanent residence permit, long-term resident’s EU residence permit or temporary residence permit granted under the circumstances referred to in Article 186(1)(3) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650),”.

Article 499. Article 2(2) of the Act of 18 March 2008 on principles of recognition of professional qualifications acquired in EU Member States (Dz. U., No. 63, item 394) shall read as follows:

“2. “Member State citizens”, when used hereinafter, shall also mean:

- 1) members of their families, within the meaning of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families (Dz. U., No. 144, item 1043, as amended⁶¹);
- 2) third-country nationals who have a long-term resident's EU residence permit within the meaning of provisions of the Act of 12 December 2013 on foreigners (Dz. U., item 1650);
- 3) third-country or stateless beneficiaries of international protection with refugee status or eligible for subsidiary protection within the meaning of separate provisions;
- 4) third-country nationals who apply to be admitted to the territory of the Republic of Poland for the purpose of undertaking a highly skilled profession within the meaning of separate provisions;
- 5) third-country nationals who have been admitted to the territory of the Republic of Poland for other purposes than performing work in accordance with European Union law or national legislation and have the right to perform work and have a residence permit under Council Regulation (EC) No. 1030/2002 of 13 June 2002 laying down a uniform format for residence permits for third-country nationals (OJ L 157, 15.6.2002, p. 1, as amended), as well as third-country nationals who have been admitted to the territory of the Republic of Poland to perform work in accordance with European Union law or national legislation within the meaning of separate provisions;

⁶¹ Amendments to the Act were promulgated in Dz. U. of 2007, No. 120, item 818, Dz. U. of 2008, No. 216, item 1367, Dz. U. of 2010, No. 81, item 531, Dz. U. of 2011, No. 92, item 532 and Dz. U. of 2013, item 1650.

6) third-country nationals who have a temporary residence permit granted under circumstances referred to in Article 151(1) or (2) of the Act of 12 December 2013 on foreigners.”.

Article 500. The Act of 2 April 2009 on Polish citizenship (Dz. U. of 2012, item 161) shall be amended as follows:

(1) In Article 30:

a) paragraph 1 shall read as follows:

“1. The following persons shall be acknowledged as Polish citizens:

1) a foreigner who has resided for a continuous period of at least 3 years in the territory of the Republic of Poland under a permanent residence permit, long-term resident’s EU residence permit or the right of permanent residence, who has a stable and regular source of income and a legal title to inhabitable premises in the territory of the Republic of Poland;

2) a foreigner who has resided for a continuous period of at least 2 years in the territory of the Republic of Poland under a permanent residence permit, long-term resident’s EU residence permit or the right of permanent residence, who:

a) has been married to a Polish citizen for a period of at least 3 years, or

b) is a stateless person;

3) a foreigner who has resided for a continuous period of at least 2 years in the territory of the Republic of Poland under a permanent residence permit obtained upon refugee status granted in the Republic of Poland;

4) a minor foreigner in the parental custody of a Polish citizen and who has resided in the territory of the Republic of Poland under a permanent residence permit, long-term resident’s EU residence permit or the right of permanent residence, whereas the other parent is not a Polish citizen and has declared consent to the acknowledgment of Polish citizenship of the minor;

5) a minor foreigner in the custody of at least one parent whose Polish citizenship has been restored and who has resided in the territory of the Republic of Poland under a permanent residence permit, long-term resident’s EU residence permit or the right of permanent residence, whereas the other parent is not a Polish citizen and has declared consent to the acknowledgment of Polish citizenship of the minor;

6) a foreigner who has resided legally for a continuous period of at least 10 years in the territory of the Republic of Poland and who meets all of the following conditions:

a) holds a permanent residence permit, long-term resident’s EU residence permit or the right of permanent residence,

b) has a stable and regular source of income and a legal title to inhabitable premises in the Republic of Poland;

7) a foreigner who has resided for a continuous period of at least 2 years in the territory of the Republic of Poland under a permanent residence permit obtained due to Polish descent.”,

b) paragraph 3 shall read as follows:

“3. The continuous character of residence of a foreigner in the territory of the Republic of Poland shall be determined pursuant to Article 195(4) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650).”;

(2) In Article 62:

a) paragraphs 3 and 4 shall be repealed;

b) the following paragraph 6 shall be added:

“6. Articles 452–458 of the Act of 12 December 2013 on foreigners shall apply to the method and procedure of providing data retained in the Central Register.”.

Article 501. The Act of 24 September 2010 on population registration (Dz. U., No. 217, item 1427, as amended⁶²) shall be amended as follows:

1) in Article 7(1)(3):

a) point (c) shall read as follows:

“(c) granting a permanent residence permit,”,

b) the semicolon in point (i) shall be replaced with a comma, and the following point (j) shall be added: “(j) obtaining a stay permit for humanitarian reasons;”;

2) in Article 43:

a) paragraph 1 shall read as follows:

“1. A foreigner who registers his/her permanent residence shall provide a residence card issued upon granting a permanent residence permit, long-term resident’s EU residence permit, a stay permit for humanitarian reasons, subsidiary protection or refugee status in the Republic of Poland; or a permit for tolerated stay; or a permanent residence permit, long-term resident’s EU residence permit, decision granting refugee status in the Republic of Poland, subsidiary protection, a stay permit for humanitarian reasons or a permit for tolerated stay.”,

b) paragraph 3 shall read as follows:

⁶² Amendments to the Act were promulgated in Dz. U. of 2010, No. 239, item 1593, Dz. U. of 2011, No. 133, item 768, No. 204, item 1195 and No. 288, item 1689 and Dz. U. of 2012, items 921 and 1407.

“3. A foreigner who registers his/her temporary residence shall provide a visa, or, where the foreigner entered the country on the basis of an agreement abolishing or limiting the visa requirement or the foreigner stays in the Republic of Poland pursuant to Article 108(1)(2) or Article 206(1)(2) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650) or on the basis of a stamp in the travel document, which confirms that the application for a long-term resident’s EU residence permit had been filed – the travel document, a provisional identity card, a residence card, a permit for tolerated stay or a temporary residence permit, a permanent residence permit, a long-term resident’s EU residence permit or a decision on granting refugee status in the Republic of Poland, subsidiary protection in the Republic of Poland, a residence permit for humanitarian reasons or a permit for tolerated stay.”

Article 502. In Article 11 of the Act of 15 April 2011 on education information system (Dz. U., No. 139, item 814, as amended⁶³):

1) subparagraph (1) shall read as follows:

“(1) citizen of a European Union Member State, a member state of the European Free Trade Association (EFTA) – party to the Agreement on the European Economic Area or the Swiss Confederation, or a family member of that person, who has the right of residence or the right of permanent residence;”;

2) subparagraph (3) shall read as follows:

“(3) a person who has been granted a permanent residence permit in the territory of the Republic of Poland;”;

3) the following subparagraph (6a) shall be added after subparagraph (6):

“(6a) a person who has been granted a residence permit for humanitarian reasons, or a family member of that person;”;

4) subparagraphs (9) and (10) shall read as follows:

“(9) a person who has been granted a long-term resident’s EU residence permit in the territory of the Republic of Poland;

(10) a person who has been granted a temporary residence permit in the territory of the Republic of Poland, due to the circumstances referred to in Article 127, Article 159(1), Article 176 or Article 186(1)(3) or (4) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650);”;

5) the following subparagraph (11a) shall be added after subparagraph (11):

“(11a) a person who holds a residence card with an annotation “dostęp do rynku pracy” (“access to labour market”), a Schengen visa or a national visa issued for the purposes of performing work in the territory of the Republic of Poland;”.

⁶³ Amendments to the Act were promulgated in Dz. U. of 2011, No. 205, item 1206, Dz. U. of 2012, item 941 and Dz. U. of 2013, items 827, 829 and 1639.

Article 503. Subparagraphs (3) and (4) of Article 5(1) of the Act of 9 June 2011 on support to families and the foster care system (Dz. U. of 2013, item 135, as amended⁶⁴) shall read as follows:

“(3) to foreigners residing in the territory of the Republic of Poland on the basis of:

- a) a long-term resident’s EU residence permit,
- b) refugee status or subsidiary protection acquired in the Republic of Poland;

(4) to foreigners residing and staying in the territory of the Republic of Poland on the basis of:

- a) a permanent residence permit,
- b) a temporary residence permit granted due to circumstances referred to in Article 186(1)(3) of the Act of 12 December 2013 on foreigners (Dz. U., item 1650).”.

Article 504. Article 3(9) of the Act of 1 July 2011 on self-management organisations of nurses and midwives (Dz. U., No. 174, item 1038 and Dz. U. of 2013, items 779 and 1247) shall read as follows:

“(9) citizens of the European Union Member States shall mean citizens of the European Union Member States, member states of the European Free Trade Association (EFTA) – party to the Agreement on the European Economic Area or the Swiss Confederation, their family members within the meaning of provisions of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families (Dz. U., No. 144, item 1043, as amended⁶⁵) and third-country nationals holding a long-term resident’s EU residence permit within the meaning of provisions of the Act of 12 December 2013 on foreigners (Dz. U., item 1650);”.

Article 505. The Act of 15 July 2011 on the profession of nurses and midwives (Dz. U., No. 174, item 1039, as amended⁶⁶) shall be amended as follows:

1) subparagraph (3) of Article 3 shall read as follows:

“(3) citizens of the European Union Member States shall mean citizens of the European Union Member States, member states of the European Free Trade Association (EFTA) – party to the Agreement on the European Economic Area or the Swiss Confederation, their family members within the meaning of provisions of the Act of 14 July 2006 on the entry into, residence in and departure from the territory of the Republic of Poland of nationals of the European Union Member States and members of their families (Dz. U., No. 144, item 1043,

⁶⁴ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2012, item 1519 and Dz. U. of 2013, items 154 and 866.

⁶⁵ Amendments to the Act were promulgated in Dz. U. of 2007, No. 120, item 818, Dz. U. of 2008, No. 216, item 1367, Dz. U. of 2010, No. 81, item 531, Dz. U. of 2011, No. 92, item 532 and Dz. U. of 2013, item 1650.

⁶⁶ Amendments to the Act were promulgated in Dz. U. of 2011, No. 291, item 1707, Dz. U. 2012, item 1456 and Dz. U. of 2013, items 940, 1245, 1287 and 1645.

as amended⁶⁷) and third-country nationals holding a long-term resident's EU residence permit within the meaning of provisions of the Act of 12 December 2013 on foreigners (Dz. U., item 1650);”.

2) subparagraph (1) of Article 35(1) shall read as follows: “(1) the foreigner holds a permanent residence permit;”;

(3) subparagraphs (4) and (5) of Article 42(1) shall read as follows:

“(4) loss of Polish citizenship, EU citizenship or revocation of the permanent residence permit;

(5) revocation of the long-term resident’s EU residence permit within the meaning of provisions of the Act of 12 December 2013 on foreigners;”.

Article 506. Subparagraph (5) of Article 6(1) of the Act of 16 September 2011 on information exchange amongst law enforcement authorities of the EU Member States (Dz. U., No. 230, item 1371) shall read as follows:

“(5) the national collection of registers, records and the list in the cases of foreigners;”.

Chapter 2

Transitional and Final Provisions

Article 507. From the date of entry into force of this Act, the permits granted under the existing provisions shall change as follows:

- 1) residence permits for a fixed period shall become temporary residence permits and remain valid for the given validity period.
- 2) residence permits shall become permanent residence permits.

Article 508. 1. From the date of entry into force of this Act, the decisions granted under the existing provisions shall change as follows:

- 1) decision on granting a permit for tolerated stay, due to premises referred to in:

Article 97(1)(1) or (1a) of the Act amended by Article 484 hereof, shall become decisions on granting a residence permit for humanitarian reasons,

Article 97(1)(2) or Article 97(2) of the Act amended by Article 484 hereof, shall become decisions on granting a permit for tolerated stay referred to in Article 351(2) or (3);

- 2) decisions on imposing the obligation to leave the territory of the Republic of Poland and decisions on expulsion, except decisions on expulsion issued under the Act amended by Article 493 hereof, shall become decisions on imposing the return obligation.

⁶⁷ Amendments to the Act were promulgated in Dz. U. of 2007, No. 120, item 818, Dz. U. of 2008, No. 216, item 1367, Dz. U. of 2010, No. 81, item 531, Dz. U. of 2011, No. 92, item 532 and Dz. U. of 2013, item 1650.

2. From the date of entry into force of this Act, decisions on granting a permit for tolerated stay referred to in Article 141(2) of the Act amended by Article 484 hereof shall become decisions on granting a stay permit for humanitarian reasons.

3. The decision on revocation:

1) of a stay permit for humanitarian reasons, which became that decision under paragraph 1(1)(a) or paragraph 2,

2) of a permit for tolerated stay, which became a permit for tolerated stay referred to in Article 351(2) or (3) under paragraph 1(1)(b)

– shall be issued by the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost who has claimed that the circumstances justify the revocation of the permits.

4. A residence card issued to a foreigner who had received a decision on granting a permit for tolerated stay prior to the date into force of entry of this Act shall remain valid for the given validity period.

5. A foreigner who stays in the territory of the Republic of Poland on the basis of a decision on granting a stay permit for humanitarian reasons which became that decision under paragraph 1(1)(a) or paragraph 2 and whose residence card expires shall be granted another non-chargeable residence card by the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost competent with respect to the place of residence of the foreigner.

6. A foreigner who stays in the territory of the Republic of Poland on the basis of a decision on granting a permit for tolerated stay which became that decision under paragraph 1(1)(b) and whose residence card expires shall be granted a permit for tolerated stay by the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost competent with respect to the place of residence of the foreigner.

Article 509. Where the provisions hereof make granting a residence permit in the territory of the Republic of Poland conditional upon the period of his/her stay in this territory on the basis of:

1) a temporary residence permit – this period of stay in the territory of the Republic of Poland shall include the period of stay of the foreigner in this territory under a residence permit for a fixed period;

2) a temporary residence permit for a specific purpose – this period of stay in the territory of the Republic of Poland shall include the period of stay of the foreigner in this territory under a residence permit for a fixed period granted for the same purpose;

3) a stay permit for humanitarian reasons – this period of stay in the territory of the Republic of Poland shall include the period of stay of the foreigner in this territory under a

decision on granting a permit for tolerated stay issued due to premises referred to in Article 97(1)(1) or (1a) of the Act amended by Article 484 hereof, or a permit for tolerated stay referred to in Article 141(2) of the Act amended by Article 484 hereof;

4) subsidiary protection – this period of stay in the territory of the Republic of Poland shall include the period of stay of the foreigner in this territory under a decision on granting a permit for tolerated stay issued due to premises referred to in Article 97(1)(1) or (1a) of the Act amended by Article 484 hereof.

Article 510. Invitations entered into the register of invitations under the existing provisions, local border traffic permits as well as visas and other documents issued to foreigners under provisions of Chapter 6 of the Act referred to in Article 521 shall remain valid for the given validity period.

Article 511. Until the existing stocks are exhausted, forms of the existing invitations and other documents for foreigners shall be issued in accordance with templates set out in executive acts pursuant to Article 20, Article 24k, Article 48f and Article 84 of the Act referred to in Article 521.

Article 512. In the case of the date when a foreigner leaves the territory of the Republic of Poland and to the provision of assistance in voluntary return, where a decision to deny the foreigner refugee status, subsidiary protection or a permit for tolerated stay is issued before the date of entry into force of this Act, the existing provisions shall apply.

Article 513. 1. In the case of administrative proceedings which have not been concluded by a final decision before the date of entry into force of this act, and which had been commenced before that date under:

- 1) acts amended herein,
- 2) the act referred to in Article 521,
- 3) the Act of 28 July 2011 on the legalisation of stay of some foreigners in the territory of the Republic of Poland and on amendments to the Act on granting protection to foreigners in the territory of the Republic of Poland and to the Act on foreigners (Dz. U. No 191, item 1133 and No. 291, item 1707)

– the existing provisions shall apply.

2. Residence permits for a fixed period and residence permits granted upon concluded administrative proceedings referred to in paragraph 1(2) and (3) shall become temporary residence permits and permanent residence permits respectively, on the day on which they are granted.

3. Decisions on granting a permit for tolerated stay issued upon concluded administrative proceedings referred to in paragraph 1(1) shall become the following decisions on the day when the proceedings become final:

1) decisions on granting a stay permit for humanitarian reasons – in the case of decisions issued due to circumstances referred to in Article 97(1)(1) or (1a) of the Act amended by Article 484 hereof;

2) decisions on granting a permit for tolerated stay referred to in Article 351(2) or (3) – in the case of decisions issued due to circumstances referred to in Article 97(1)(2) or Article 97(2) of the Act amended by Article 484 hereof;

4. Decisions on imposing the obligation to leave the territory of the Republic of Poland and decisions on expulsion issued upon concluded administrative proceedings referred to in paragraph 1(1) or (2), except administrative proceedings referred to in the Act amended by Article 493, shall become decisions on imposing the return obligation on the day when they become final.

5. The foreigner who stays in the territory of the Republic of Poland on the basis of:

1) a decision on granting a stay permit for humanitarian reasons which has become this decision under paragraph 3(1) shall be granted a residence card by the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost competent with respect to the place of residence of the foreigner;

2) a decision on granting a permit for tolerated stay which has become this decision under paragraph 3(2) shall be granted a permit for tolerated stay by the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost competent with respect to the place of residence of the foreigner.

6. A decision on revocation of a stay permit for humanitarian reasons referred to in paragraph 3(1), or a decision on revocation of a permit for tolerated stay referred to in paragraph 3(2) shall be granted by the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost who has claimed that the circumstances justify the revocation of the permit.

Article 514. 1. A decision on revocation of a residence permit for a fixed period, granted upon proceedings commenced before the date of entry into force of this Act and not concluded by a final decision until that date, shall not determine the obligation to leave the territory of the Republic of Poland.

2. A decision:

1) on revocation:

a) of a residence permit,

b) of a long-term resident's EU residence permit,

2) to deny the foreigner refugee status, subsidiary protection or a permit for tolerated stay,

3) on revocation of the foreigner's asylum,

4) on revocation of a permit for tolerated stay

- concluding proceedings commenced before the date of entry into force of this Act and not concluded until that date by a final decision, shall not determine expulsion.

3. Authorities conducting proceedings in cases referred to in paragraphs 1 and 2 shall notify the Polish Border Guard authority competent with respect to the place of residence of the foreigner of concluding the proceedings when the decisions in those cases become final.

Article 515. 1. Proceedings on the replacement of a residence card granted to a foreigner upon a permit for tolerated stay due to circumstances referred to in Article 97(1)(2) or Article 97(2) of the Act amended by Article 484 hereof, commenced and not concluded before the date of entry into force of this Act, shall become proceedings on issuing or replacing a permit for tolerated stay.

2. The voivode and the Head of the Office shall hand over files of cases referred to in paragraph 1 to the commanding officer of the Polish Border Guard unit or the commanding officer of the Polish Border Guard outpost competent with respect to the place of residence of the foreigner within 14 days from the date of entry into force of this Act.

Article 516. Foreigners aged 6 and over who:

1) were granted a residence permit for a fixed period or a residence permit which, pursuant to Article 507 and Article 513(2), became a temporary residence permit or a permanent residence permit respectively, or

2) were granted a long-term resident's EC residence permit upon an application filed before the date of entry into force of this Act, or

3) have filed an application for replacement of their residence card before the date of entry into force of this Act, or

4) were granted a permit for tolerated stay upon a decision which became a decision on granting a stay permit for humanitarian reasons pursuant to Article 508(1)(1)(a) or Article 508(2)

- shall be granted a residence card after their fingerprints have been taken, unless it is physically impossible to take their fingerprints.

Article 517. 1. On the day of entry into force of this Act, foreigners' data entries collected in the register under the existing regulations shall become the entries in the registers kept hereunder, and shall be stored for a period for which they have been entered into the register.

2. Provisions of Chapter 2 of Section X on collection and storage of data on a foreigner upon whom the return obligation was imposed together with a prohibition on re-entry into the territory of the Republic of Poland or a prohibition on entry into the territory of the Republic of Poland and other countries of the Schengen area shall apply to prohibitions on re-entry imposed by decisions issued under the existing provisions.

Article 518. Data collected under the existing provisions in the “System Pobyt” (Residence System) national collection of registers, records and the list of foreigners’ cases shall be transferred to the national collection of registers, records and the list of foreigners’ cases kept hereunder on the day of entry into force of this Act.

Article 519. The Head of the Office for Foreigners appointed under the Act repealed by Article 521 hereof is the Head of the Office for Foreigners within the meaning hereof.

Article 520. The existing implementing rules issued under:

1) Article 11c(8), Article 15(4), Article 20(1), Article 21(7), Article 23(5), Article 24j(2), Article 24k, Article 48f, Article 48g(1), Article 53b(6), Article 63(1) and (2), Article 63o, Article 71d, Article 83(4), Article 84(1), Article 84a(3), Article 100(1) and (2), Article 100a(6), Article 101(7), Article 109(2) and (3), Article 118(2), Article 123(1) and Article 142(4) of the Act referred to in Article 521 shall remain in force until the date of entry into force of implementing rules issued pursuant to Article 12(1) and (3), Article 21(3), Article 26(1), Article 33(5), Article 36(1), Article 46, Article 47(2), Article 57(1), Article 63, Article 80(1), Article 89(1), Article 97(1), Article 107(1), Article 139, Article 146, Article 150(1), Article 157(1), Article 204(1), Article 222(1), Article 239(1), Article 285(1), Article 287(1), Article 312, Article 339(1), Article 365(4), Article 394(6), Article 409 and Article 427(1) hereof,

2) Article 10(5a) of the Act amended by Article 467 shall remain in force until the date of entry into force of implementing rules issued pursuant to Article 10(5a) of the Act amended by Article 467 as amended herein,

3) Article 94a(6) of the Act amended by Article 474 shall remain in force until the date of entry into force of implementing rules issued pursuant to Article 94a(6) of the Act amended by Article 474 as amended herein,

4) Article 90(1) and (4) of the Act amended by Article 488 shall remain in force until the date of entry into force of implementing rules issued pursuant to Article 90(1) and (4) of the Act amended by Article 488 as amended herein,

– but not beyond 12 months from the date of entry into force of this Act.

Article 521. Act on Foreigners of 13 June 2003 (Dz. U. of 2011, No. 264, item 1573, as amended⁶⁸) shall be repealed.

Article 522. This Act shall enter into force as of 1 May 2014, except Article 470(3)(a) within the scope of Article 3a(3), Article 470(3)(b) and Article 470(4), (5) and (11)–(16) which shall enter into force on the day of publication.

President of the Republic of Poland: *B. Komorowski*

⁶⁸ Amendments to the consolidated text of the Act were promulgated in Dz. U. of 2012, items 589 and 769 and in Dz. U. of 2013, item 628.

