Polish Investment & Trade Agency
PFR Group

Doing business in Poland

Investor's guide

Poland 2023

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POLAND – a reliable partner for foreign investors

01.

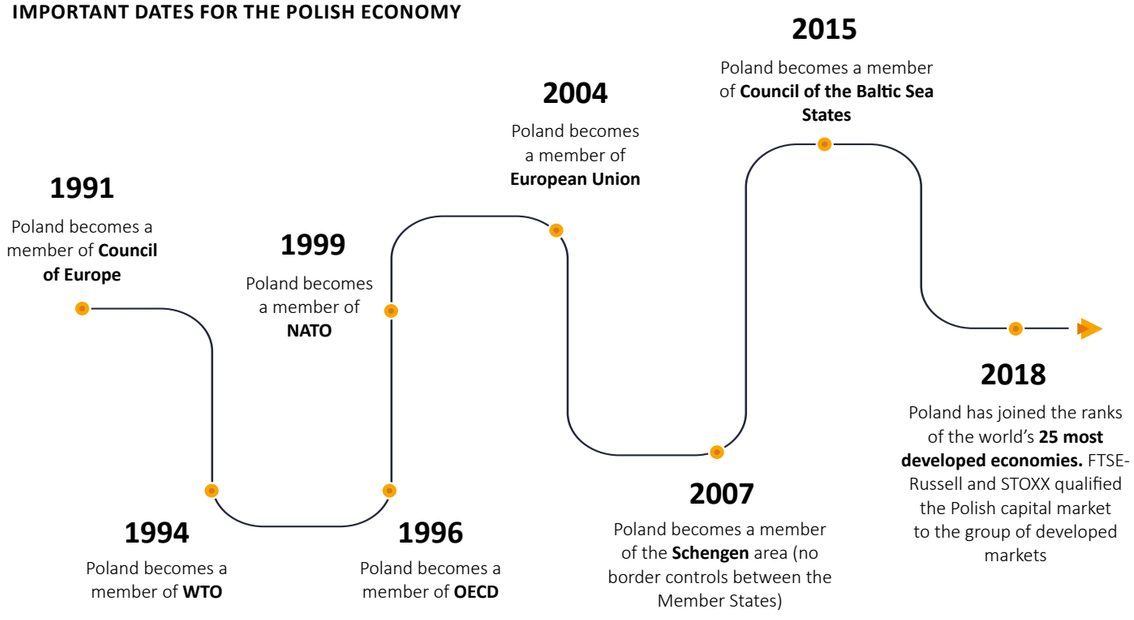
In recent years Poland has achieved stable economic growth due to factors such as an affordable skilled workforce, the increasing value of foreign direct investments (FDI), and a stable banking sector.

This has allowed Poland to be the only EU country that resisted the 2009 recession and to quickly mitigate the impact of the COVID-19 pandemic on its GDP growth.

However, the war in Ukraine has brought challenging times to all global economies. While at this stage its impact is very difficult to measure, it is worth noting that Poland has been through many turbulent times in the past 30 years which resulted in its strong and robust society. According to some analysts, the Polish economy is expected to fall into a "soft landing" scenario despite geopolitical and economic challenges.

Despite the war in Ukraine, Poland remains a safe and stable investment environment and a member of key strategic alliances, such as NATO.

IMPORTANT DATES FOR THE POLISH ECONOMY



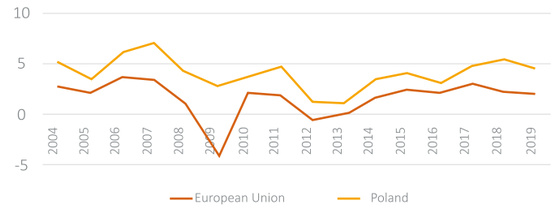
KEY REASONS TO INVEST IN POLAND

1. STABLE AND STRONG ECONOMY

1. Poland is the sixth largest economy in the European Union, closely behind the Netherlands, Spain, Italy, France and Germany[1].

2. Since joining the European Union in 2004, Poland's GDP has shown stable growth, Poland was also the only EU country to resist the 2009 economic recession.

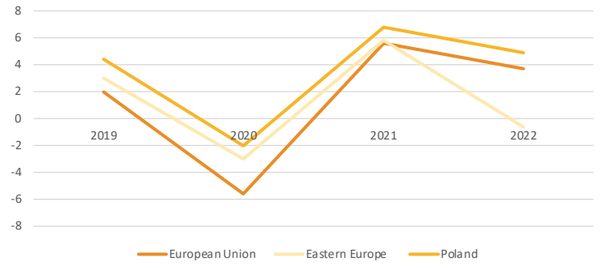
REAL GDP GROWTH (ANNUAL % CHANGE)



Source: IMF, pre-pandemic figures

3. Comparing to other EU countries, the COVID-19 pandemic influenced Polish GDP growth to a lesser degree and the Polish economy recovered swiftly in 2021.

REAL GDP GROWTH (ANNUAL % CHANGE)



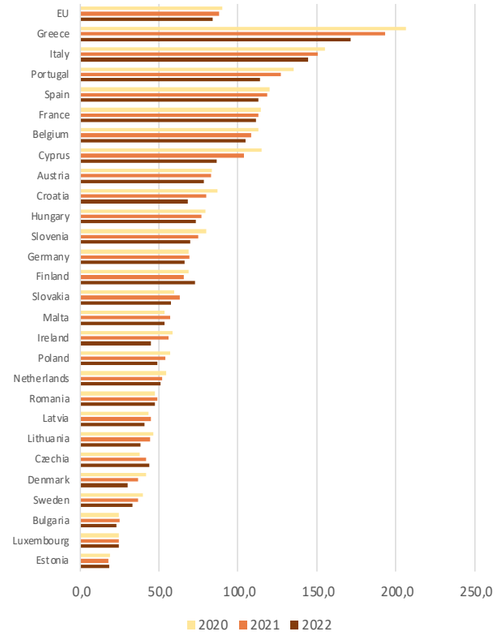
Source: IMF

4. For 2023, all major rating agencies have kept their rating for Poland, unchanged compared to the previous year giving it a very stable outlook.

RATING AGENCY	SCORE
S&P	A-/A-2 for long and short-term liabilities in foreign currency, and A/A-1 for long and short-term liabilities in local currency
Moody	A2/P1 for long and short-term liabilities
Fitch	A-/F1 for long and short-term liabilities in foreign currency, and A-/F1 for long and short-term liabilities in local currency.

5. Poland has also one of the lowest consolidated gross debt to GDP ratios comparing to other EU countries, including countries from the CEE region.

GENERAL GOVERNMENT CONSOLIDATED GROSS DEBT AS A % OF GDP

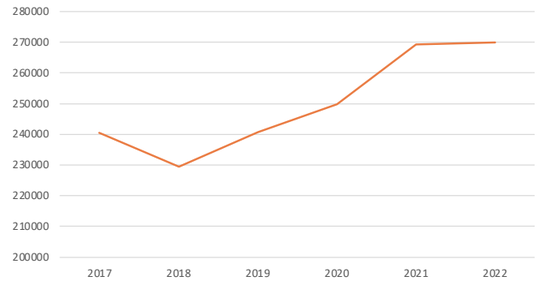


[1] Source: Eurostat

2. AN ATTRACTIVE ENVIRONMENT CONSISTENTLY ATTRACTING FOREIGN DIRECT INVESTMENT

1. Poland has a stable growth of FDI – 7.8% growth in FDI stock between 2020 and 2021, with FDI representing approx. 40% of Polish GDP and stable FDI stock volume despite turmoil in 2022.

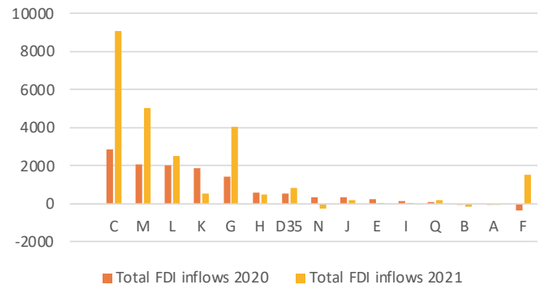
FDI STOCK (MLN USD)



Source: UNCTAD

2. The largest inflow of FDI funds in 2021 was recorded by the services sector. In 2021, nearly 70% of the funds went to three sections of this sector: Professional, Scientific and Technical Activities (EUR 5 billion, section M), Real Estate Activities (EUR 2,4 billion, section L) and Wholesale and retail trade (EUR 4 billion, section G). Nearly EUR 9 billion flowed into the manufacturing sector (section C).

TOTAL FDI INFLOWS IN 2020 AND 2021 BY ECONOMIC ACTIVITY (IN EUR MLN)



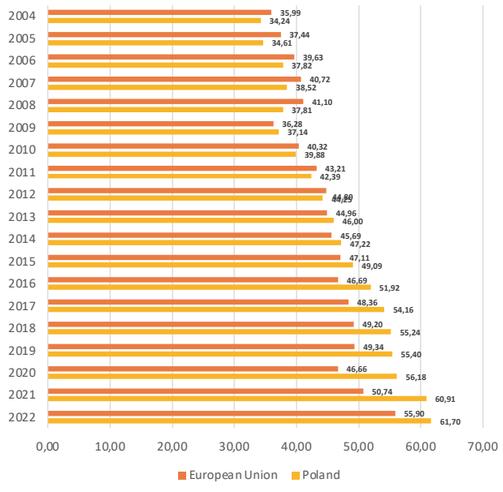
Source: National Bank of Poland

A - Agriculture, forestry and fishing, B - Mining and quarrying, C - Manufacturing, D35 - Electricity, Gas, Steam and Air Conditioning Supply, E - Water Supply; Sewerage, Waste Management and Remediation Activities, F- Construction, G - Wholesale and Retail Trade; Repair of Motor Vehicles and Motorcycles, H- Transportation and Storage, I- Accommodation and Food Service Activities, J- Information and Communication, K - Financial and Insurance Activities, L - Real Estate Activities, M - Professional, Scientific and Technical Activities, N - Administrative and Support Service Activities, Q- Human Health and Social Work Activities.

3. RELIABLE EXPORT PARTNER

1. After joining the EU, the value of Polish exports increased and continues to rise.

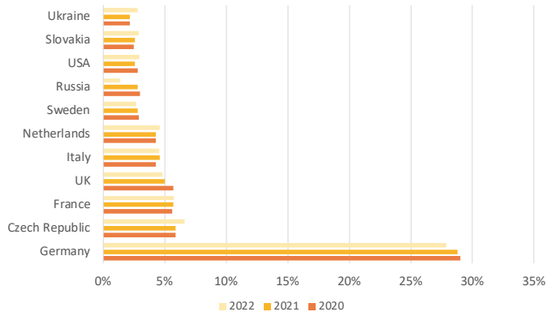
EXPORTS OF GOODS AND SERVICES (% OF GDP)



Source: World Bank

2. Both in 2022 and in previous years, Poland's largest share of exports was with developed countries- 87.2% (including the EU at 75.7%). Poland's main export partners in 2022 are Germany (27.8%), the Czech Republic (6.6%), France (5.7%) and the UK (5%).

STRUCTURE OF COMMODITY EXPORTS BY KEY EXPORT PARTNERS (IN %)



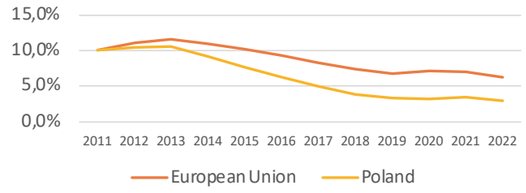
Source: Statistics Poland

3. As to the structure of exports, machinery, equipment and transport equipment (37.1%) come in at first place, followed by industrial goods classified by raw material (18.3%) and in third place other industrial goods (17.7%)[2].

4. HIGHLY SKILLED WORKFORCE

1. Poland is an Academic Hub with:
   - over 300 institutes of higher education,
   - over 1.2 mln students,
   - around 350,000 graduates a year[3], with approx. 20% graduating with engineering / technical majors.
2. For the past 10 years, Poland has consistently been within the first 10-16 countries ranked High or Very High Proficiency Index[4] and is one of the leaders in this area among CEE Countries.[5]
3. In 2022 unemployment rate remains twice as low comparing to the EU average (2.9% compared to 6,2%).
   - Poland is recognized by the UN as a very highly developed country due to its high Human Development Index (HDI).

UNEMPLOYMENT RATE



The unemployment rate for 2022 published by the Central Statistical Office (GUS) is approx. 5,3%, which results from a different methodology used in collecting and compiling data, including a different definition of unemployed person.

4. Competitive labour costs (EUR/h) compared to the EU average in 2022, taking into account skilled workforce[6]
   - Average EU (EUR/h): 30,5
   - Average Poland (EUR/h): 12.50

5. PROSPECTIVE SECTORS OF ECONOMY FOR FUTURE INVESTMENTS

Poland has several sectors of economy which are highly prospective when it comes to their development such as[7]:

AEROSPACE

- More than a century of history in the sector in Poland.
- An excellently developed network of sub-suppliers and cooperators - five largest aircraft engine manufacturers produce in Poland.
- A total of more than 200 aerospace companies have located in Poland, with annual sales of up to PLN 8.5 billion, creating more than 18,000 jobs.

HOME APPLIANCES

- Long-standing traditions in the production of household appliances.
- A rich network of sub-suppliers, cooperators.
- Presence of key multinational corporations in the sector along with rich technological background.- Poland is a location for 35 factories of household appliances.

[2] Source: Statistics Poland.
[3] Source: Statistics Poland, Higher education in the academic year 2020/2021 (preliminary results).
[4] EF Education First, EF English Proficiency Index, 2022.
[5] For 2022,Poland is ranked 13 (Very High Proficiency), other CEE countries – High Proficiency: Slovakia – 15th Hungary- 18th, Lithuania-19th, , Czech Republic – 23rd Latvia – 25th, Estonia – 26th,
[6] https://ec.europa.eu/eurostat/statistics-explained/index.php?title=File:Hourly_labour_costs_in_euro.png
[7] Source: PAIH

ELECTRONICS

- Sales value: PLN 44.23 billion (2020) / (6% y/y growth).
- 62.5 k people in the manufacture of computer, electronic and optical products in 2020. This accounted for 2% of the industry's employees.
- 150 companies in the sector (manufacture of computer, electronic and optical products > 49 employees).

ELECTROMOBILITY

- In 2015-2019, Poland's automotive parts sector was the fastest growing in the world.
- Poland is at the forefront when it comes to automotive investment in Europe.
- The largest battery factory for electric cars in Europe is located in Poland.

BUSINESS SERVICES SECTOR

- Poland is the regional leader in terms of both the number of centers and the volume of employment in the sector.
- There are more than 1,300 centers operating across the country (accounting for about 70% of all BSS centers in CEE).
- Employment in the sector exceeds 300,000 employees, accounting for almost 50% of employment in the sector in this part of Europe.

FOOD

- 44.1% of the sector's output is exported abroad (€23.4 billion in 2020, according to Eurostat).
- Export value: PLN 170.8 billion (2021, up +9.0% y/y).
- 1274 companies in the sector (companies with more than 49 employees, 2020).

PHARMACEUTICALS

- The pharmaceutical sector accounts for about 1 percent of GDP, directly and indirectly creates nearly 100,000 jobs.
- 78.2 mln euros- FDI inflow in 2019 within the pharmaceutical manufacturing sector.

MEDTECH

- The largest medical device market in CEE- currently worth $11 billion, with a projected $13.8 billion in 2024.
- Growing private healthcare sector- 7% CAGR over 2016-2021.
- Highest health spending in CEE- $38.2 billion.

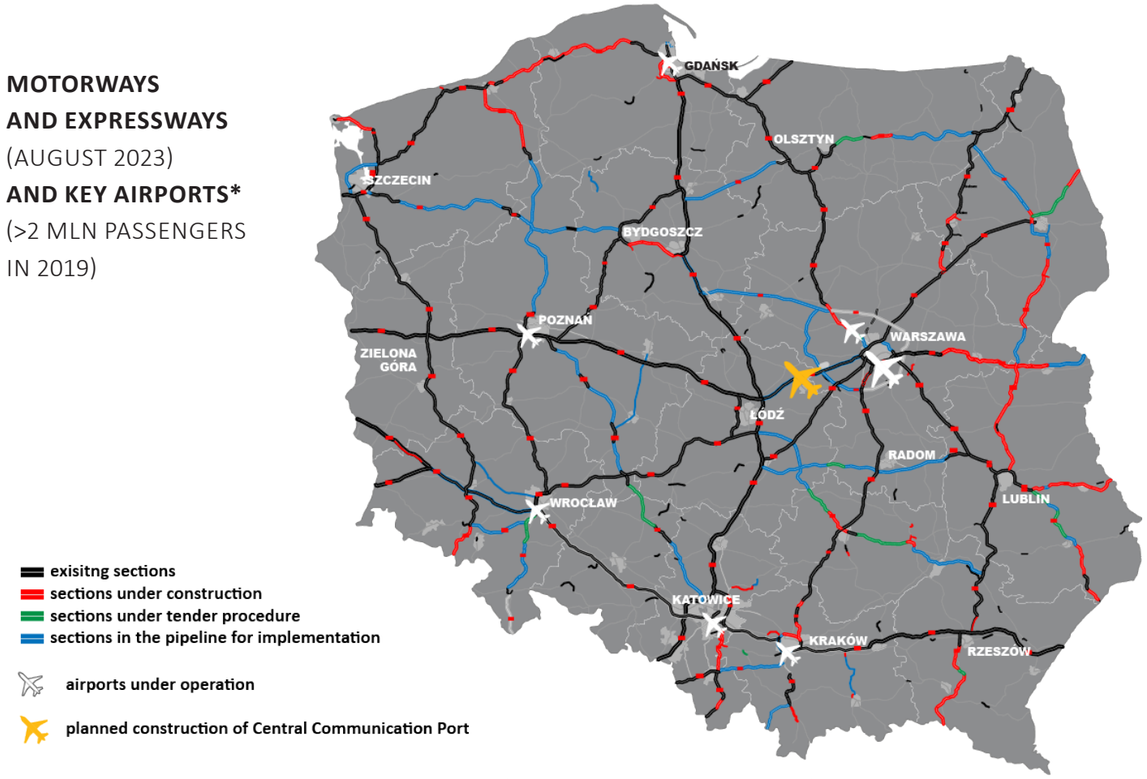
ICT

- Around 8% of Polish GDP.
- c.a. 50 k small, medium and big IT companies.
- c.a. 430 k employees.

6. CENTRAL EU LOCATION AND DEVELOPED INFRASTRUCTURE

1. Sea access and central position between Western and Eastern Europe.
2. At the crossroads of European trade and transport routes, with well-developed logistic centers.
3. 15 airports, 4 major maritime ports, the total length of railway lines of approx. 19,000 km, approximately 5 000 km total length of motorways and expressways put into use as in January 2023.

MOTORWAYS AND EXPRESSWAYS (AUGUST 2023) **AND KEY AIRPORTS*** (>2 MLN PASSENGERS IN 2019)



***MINOR AIRPORTS** (<2 MLN PASSENGERS IN 2019): RZESZÓW – JASIONKA, SZCZECIN – GOLENIÓW, BYDGOSZCZ, LUBLIN, ŁÓDŹ, OLSZTYN-MAZURY, ZIELONA GÓRA – BABIMOST, RADOM

Source: https://www.gov.pl/web/gddkia/przygotowanie-drog-krajowych---mapa-pdf

7. ACCESS TO GRANTS AND INCENTIVES

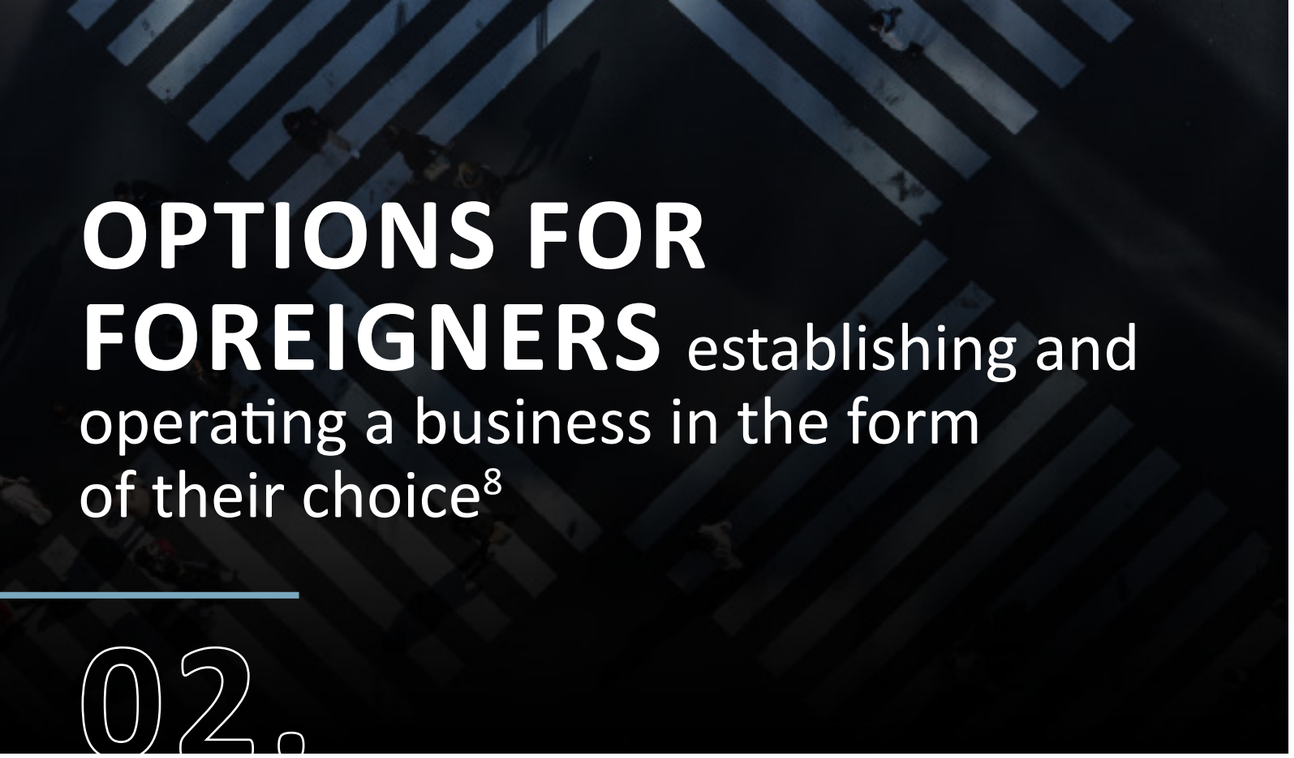
1. Poland is the biggest beneficiary of EU cohesion and regional development funding, a significant part of which is addressed to enterprises for R&D, innovation and environmental projects.
2. Investors can obtain a CIT exemption under Polish Investment Zones and apply for Polish government grants for strategic projects throughout Poland.
3. Poland provides for a wide range of tax preferences for innovation and R&D, including R&D relief, IP BOX and relief for automation.

8. WIDE CONSUMER MARKET

Around 38 mln consumers and unlimited access to the EU Single Market of almost 450 mln customers.

9. STRATEGIC ALLIANCES AND MEMBERSHIP

- Poland is a member of important key international institutions and alliances, such as: NATO, OECD, UN and WTO.
- Poland is constantly improving the quality of its armed forces and its strategic meaning within NATO is also reflected by developed NATO structures on our territory of the country such as NATO Multinational Corps Northeast in Szczecin, NATO ICT Support Team and NATO Force Integration Group – both in Bydgoszcz, as well as NATO Counterintelligence Expert Center in Cracow. Moreover, in mid-2022 preparation began to implement a permanent command of the U.S. Army V Corps.



OPTIONS FOR FOREIGNERS establishing and operating a business in the form of their choice[8]

02.

INTRODUCTION

Foreigners can set up business in Poland in many ways. Running a business activity by foreign persons (natural persons without Polish citizenship or organizational units based outside Poland) depends mostly on the country of origin of the investor who intends to start doing business in Poland.

Foreign persons from Member States of the European Union, or the European Free Trade Association (EFTA) - party to the Agreement on the European Economic Area (**Member State**) may take up and pursue economic activity in the territory of the Republic of Poland on the same principles as Polish citizens.

If a person does not belong to those persons listed above, economic activity may be undertaken by foreign persons who are not citizens of Member States on the same basis as Polish citizens also when such persons, i.a.:

a. have a permanent residence permit,
b. have a residence permit for a long-term EU resident,
c. have a temporary residence permit,
d. have refugee status,
e. have subsidiary protection,
f. have a permit to stay for humanitarian reasons or a permit for tolerated stay,
g. have a temporary residence permit and are married to a Polish citizen residing in the territory of the Republic of Poland,
h. have a temporary residence permit for the purpose of carrying out business activities, granted due to continuation of business activities already carried out on the basis of an entry in the Central Register of Business Activity and Information (CEIDG),
i. enjoy temporary protection in the Republic of Poland,
j. hold a valid Pole's Card,
k. Beneficiaries of government programs listed on the website of the Prime Minister's Office (amongst others, the Poland.Business Harbour program, more: https://www.gov.pl/web/poland-businessharbour-en).

Unless international agreements provide otherwise, other persons (who are not at the same time natural persons holding a residence permit with which the possibility of undertaking economic activity is connected) can commence economic activity through the below listed entities:

- limited partnership (in Polish: *spółka komandytowa*),
- limited joint-stock partnership (in Polish: *spółka komandytowo-akcyjna*),
- limited liability company (in Polish: *spółka z ograniczoną odpowiedzialnością*),
- simple joint-stock company (in Polish: *prosta spółka akcyjna*),
- joint-stock company (in Polish: *spółka akcyjna*).

[8] Act of 6 March 2018- Principles of Participation of Foreign Entrepreneurs and other Foreign Persons in Economic Turnover in the Territory of the Republic of Poland.
Act of 15 September 2000- The Commercial Companies Code.
Act of 6 March 2018 on Central Registration and Information on Economic Activity and the Entrepreneur Information Point.
Act of 6 March 2018 – The Entrepreneurs Law.

Similarly, these foreigners may also join the above-mentioned companies and take up or acquire stocks. The most popular company in Poland, chosen by both Polish citizens and foreign entities, is the limited liability company (LLC). In the following sections, we will describe this company, as well as compare it with other available options.

The above mentioned companies (held by foreign investors) can freely take up and carry out business activity in Poland on the same terms as Polish entrepreneurs.

Other forms of taking up business activity in Poland by a foreigner include **establishing a sole proprietorship, branch of the foreign entrepreneur or representative office.**

Sole proprietorship, branch of the foreign entrepreneur, representative office and LLC details

SOLE PROPRIETORSHIP	BRANCH OF THE FOREIGN ENTREPRENEUR	REPRESENTATIVE OFFICE	LIMITED LIABILITY COMPANY
SCOPE OF ACTIVITY			
No limits	Within the scope of the foreign entrepreneur's activity	In the field of advertising and promotion	No limits
LEGAL PERSONALITY			
Yes	No legal personality	No legal personality	Yes
MINIMAL CAPITAL			
None	None	None	PLN 5,000
RESPONSIBILITY			
Unlimited	Foreign entrepreneur is responsible for all the obligations		Shareholders are not liable for the company's obligations
FOUNDERS/SHAREHOLDERS			
Sole proprietor	Foreign entrepreneur		Natural persons or legal persons
REPRESENTATION			
Sole proprietor or proxy	Person authorized by the foreign entrepreneur		Management Board
REGISTRATION			
Within one day	From 3 to 4 weeks		

1. BRANCH OF THE FOREIGN ENTREPRENEUR

One of the forms of conducting business in Poland created in favor of foreigners is a branch of the foreign entrepreneur which allows the entrepreneur to expand its operations to Poland without establishing a separate legal entity. A foreign entrepreneur willing to establish a branch must bear in mind that this kind of activity may only be undertaken **within the scope of the foreign entrepreneur's activity.** A branch of the foreign entrepreneur may be established by foreign entrepreneurs from Member States, as well from other countries, on the basis of the principle of mutuality, as long as ratified international agreements do not provide otherwise.

To start operating as a branch of the **foreign entrepreneur, a foreign entity must register the branch in the Register of Entrepreneurs of the National Court Register (KRS).**

A branch is not a separate entity from the foreign entrepreneur and therefore has no legal personality, legal capacity, judicial personality and judicial capacity which results in no capability to be a party of legal actions, as well as no capability to sue and to be sued and lack of the possibility to undertake any legal or judicial actions. This results in the branch being represented by a representative of a foreign entrepreneur appointed by a foreign establishing entity. A branch is commonly chosen by foreign entrepreneurs when expansion of their business operations established so far is not considered. It is also used by micro and small entrepreneurs as well as big companies such as banks.

According to the data provided by Statistics Poland,[9] the percentage of branch offices of a foreign entrepreneur established in 2020 was 0.8% of all entities with foreign capital established in this time frame. Investors who initially consider opening a branch in Poland often decide, after an initial appraisal, to reduce the risk and separate the Polish operations from their main entity in home country, and as a result decide to set up a limited liability company. The effort required to set up a branch and a company is similar, and with the latter they often get more benefits.

REPRESENTATIVE OFFICE

The second form of carrying out business in Poland foreseen specifically for foreigners is a form of representative office. In this case conducting business by a foreign entity is possible **only in the scope of advertising and promotion.**

Establishing a representative office requires an entry in the register of representative offices of foreign entrepreneurs kept by the Minister for Entrepreneurship and Technology.

Similar to a branch of a foreign entrepreneur, a representative office is not a separate entity from a foreign entrepreneur and therefore has no separate legal or judicial personality. The person authorized to represent the foreign entrepreneur is appointed by a foreign establishing entity. This type of activity should be chosen only if the investor does not plan to start full-scale operations in the country, and the representative office capabilities are sufficient for them.

[9] Statistics Poland, Economic activity of enterprises with foreign capital in 2020, Warsaw 2021, available on: stat.gov.pl.

TYPES OF **COMMERCIAL COMPANIES**[10]

1. OVERVIEW

Business in Poland may be also conducted in a more structured and formalized way – in the form of companies, or rather using legal terminology – commercial companies. The Commercial Companies Code provides various options suitable for different kinds of businesses. The Code distinguishes two types of commercial companies – **partnerships and corporations.** The distinction between these stems from the different emphasis on personal and capital issues.

Partnerships include **general partnership, professional partnership, limited partnership and limited joint-stock partnership**, and are based on the criterion of cooperation of persons who are participants – associates. Such associates generally bare personal responsibility for the company's liabilities and personally conduct the company's business.
However, depending on the type of partnership, responsibility for liabilities of certain associates may be limited. What is crucial, partnerships, except for a limited joint-stock company, cannot be established by only one entity and must have at least two associates during their life. Partnerships do not have legal personality, however they are capable of acquiring rights and incurring obligations, to sue and be sued. **Partnerships can start operating from the moment of registration in the Register of Entrepreneurs of the National Court Register (KRS).** Due to its personal, in-person nature, this is not a form often chosen by foreign investors.

Corporations, on the other hand, are companies with an explicitly accented role of capital. For corporations, the Code distinguishes between **limited liability company, simple joint-stock company and joint-stock company.** The main difference between corporations and partnerships is that **shareholders/stockholders of corporations do not carry personal responsibility for the company's liabilities.** All corporations provided under the Code have legal personality and are represented by a governing body instead of shareholders/stockholders. However, there are no obstacles for a shareholder/stockholder- a natural person- to be appointed to the governing body of a limited liability company, who runs its businesses and represents it. **Corporations may start operating before registration in the KRS. Until then they operate as "a company in organization"** and may acquire rights in their own name, including ownership of real estate and other rights in rem, incur obligations, sue and be sued.

[10] Act of 15 September 2000- The Commercial Companies Code.

2. DETAILS OF COMMERCIAL COMPANIES

PARTNERSHIPS

	General partnership	Professional partnership	Limited partnership	Limited joint-stock partnership
Abbreviation	Sp.j.	Sp.p.	Sp.k.	S.K.A
Legal personality	No legal personality			
Name of the Partnership	Surname or business name of at least one associate (also needs to include legal form of the partnership).	Surname of at least one partner (also needs to include designation distinguishing legal form of the partnership).	Surname or business name of at least one general partner (also needs to include legal form of the company).	
Articles of Association (AoA)	AoA in writing under pain of nullity. (possible use of a model AoA)*.	AoA in writing under pain of nullity.	AoA in notarial deed form. (possible use of a model AoA)*.	AoA in notarial deed form.
Founders	Minimum two natural or legal persons.	Minimum of two natural persons authorized to practice liberal professions, e.g., advocate, doctor, architect, construction expert.	Minimum two natural or legal persons.	Natural or legal persons.
Minimal capital	None			PLN 50,000
Persons contributing to the company	Associates	Partners	General partner, limited partner	General partner, stockholder
Participation in profits and losses	Each associate is entitled to an equal share of profits, regardless of the type and value of the contribution. The AoA may otherwise stipulate the ratio of associates' share of profits and losses.	Each partner is entitled to an equal share of profits, regardless of the type and value of the contribution. The AoA may otherwise determine the ratio of partners' share of profits and losses.	A limited partner participates in the company's profit in proportion to his contribution actually made to the company, unless the AoA provide otherwise.	The general partner and stockholder participate in the company's profit in proportion to their contributions made to the company, unless the AoA provide otherwise.
Responsibility for liabilities	**Subsidiary liability - In the event that enforcement against the company's assets proves ineffective, the creditor may carry out enforcement against the associate's assets**			
	Unlimited.	Partner- not liable for obligations of the company arising out of the performance of activities by the other partners, as well as for obligations that result from the acts or omissions of persons employed by the company.	General partner- unlimited. Limited partner- liable for obligations of the company to its creditors only up to the amount of the limited partnership sum.	Stockholder- not applicable. General partner- unlimited.

PARTNERSHIPS

	General partnership	Professional partnership	Limited partnership	Limited joint-stock partnership
Representation	Each associate has the right to represent the company.	Each partner has the right to represent the partnership independently, unless the AoA provide otherwise, e.g. obliges two partners to act jointly on behalf of the partnership. There is a possibility to establish a Management Board responsible for running the business and representing the partnership.	The partnership is represented by the general partner.	The partnership is represented by the general partner.
Governing bodies	None.	Management Board (optional).	None.	Supervisory Board (obligatory only if more than 25 shareholders).
Dissolution	Formal liquidation proceedings are required unless associates decide to dissolve the partnership without carrying out liquidation and close the business otherwise (e.g. distribute assets and liabilities among partners).			Carrying out a liquidation in case of dissolution of the partnership is necessary.

Title: Characteristic features of partnerships

CORPORATIONS

	Limited liability company (LLC)	Simple joint-stock company	Joint-stock company
Abbreviation	Spółka z o.o. or Sp. z o.o.	P.S.A.	S.A.
Legal personality	Corporations have legal personality		
Name of the company	Any name without limitations (but must include legal form of the company).		
Articles of Association (AoA)	AoA in notarial deed form. (possible use of a model AoA)*.	AoA in notarial deed form. (possible use of a model AoA)*.	AoA in notarial deed form.
Founders	One or more natural or legal persons (cannot be established by single-member LLC).	One or more natural or legal persons (cannot be established by single-member LLC).	One or more natural or legal persons (cannot be established by single-member LLC).
Minimal capital	PLN 5,000	PLN 1	PLN 100,000

CORPORATIONS

	Limited liability company (LLC)	Simple joint-stock company	Joint-stock company
Persons contributing to the company	Shareholders.	Stockholders.	Stockholders.
Participation in profits	In general, unless otherwise stipulated in the AoA, each share gives equal right to dividend.	In general, unless otherwise stipulated in the AoA, each stock gives equal right to dividend.	In general, unless otherwise stipulated in the AoA, each stock gives equal right to dividend.
Shareholders' / stockholders' responsibility	Shareholders are not liable for the company's obligations.	Stockholders are not liable for the company's obligations.	Stockholders are not liable for the company's obligations.
Management Board members' liability for the company's debts	If enforcement against the company proves ineffective, the members of the Management Board are jointly and severally liable for the company's obligations.		
Representation	The company is run and represented by the Management Board.	The company is represented by the board of directors or the Management Board.	The company is run and represented by the Management Board.
Management	Management Board.	Board of Directors or Management Board, Supervisory Board optional in case of appointment of a Management Board.	Management Board.
Supervision	Supervisory Board or audit committee or both at the same time (obligatory if the company's capital is greater than PLN 500,000 and the number of shareholders more than 25).		Supervisory Board.
	Any natural person with full legal capacity may be a member of the governing body (including foreigners)		
Dissolution	Carrying out a liquidation in case of dissolution of the company is required.		

Title: Characteristic features of corporations.

*** Model AoA are available in the data communication system** on an on-line platform - in this case there is a limited possibility to adjust the wording of the AoA to the needs of the future associate (the future associate may only choose from among the provisions expressly given in the form available on: https://ekrs.ms.gov.pl/s24/). However, it is possible to apply desired changes to the AoA in traditional form required to each type of the company. This way of establishing a company is not designed for foreign applicants - the portal works only in Polish and individual documents should be signed with a Polish identity verification system (ePUAP) or a qualified digital signature.

SETTING UP A BUSINESS STEP BY STEP[11]

Knowing the characteristics of each form of business provided by Polish law it is essential to also get acquainted with the process of setting up a business and with the costs and estimated timeframe. Therefore, considering the business needs of an entity, available funds and time, one can make the best decision on the preferred form of undertaking economic activities in Poland.

1. SOLE PROPRIETORSHIP

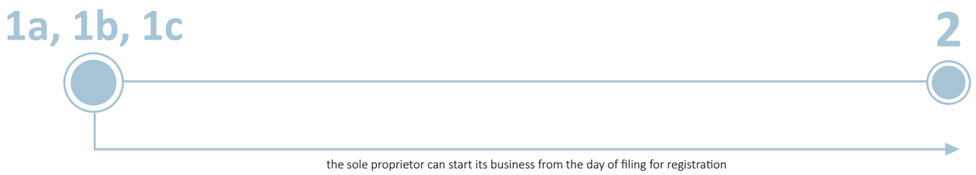
Sole proprietorships are reserved for natural persons only. In order to start a business as a sole proprietor – only filing for registration with the Central Register and Information on Business Activity (**CEIDG**) is needed (available also online on: https://www.biznes.gov.pl/pl). The name of the sole proprietorship must include at least the first name and surname of the sole trader.

The following information is required in order to start a sole proprietorship:

- name, surname, parents' names, date and place of birth,
- type, series and number of identity document,
- PESEL, if assigned,
- all citizenships held,
- NIP (tax number) and REGON (statistical number), if granted,
- address of residence and other addresses connected with the business activity being established,
- the name of the business to be set up- this must include your first and last name,
- abbreviated name,
- PKD codes (standard codes indicating the type of business activities which are available here: https://www.biznes.gov.pl/en/table-pkd-code),
- the number of employees you plan to employ,
- date of commencement of your business activity,
- information on insurance in the Social Insurance Institution (Polish: *Zakład Ubezpieczeń Społecznych or ZUS*) or abroad,
- details of the tax office with jurisdiction over your place of residence.

Registration in CEIDG is free of charge. This can be done either online through biznes.gov.pl or some banks' online services or in a city or municipal authority office in writing. Online registration requires a Polish trusted profile (ePUAP) available for persons holding a PESEL number. A PESEL number can be granted for persons registered in Poland for a stay of more than 30 days. The responsible authority for assigning the PESEL number is the city or municipal authority office.
Sole proprietorship is available for foreigners from Member States of the European Union, or the European Free Trade Association (EFTA)- party to the Agreement on the European Economic Area (**Member State**) and for foreigners with a specific basis of residence in Poland. Sole proprietorship is also available for persons holding a Poland. Business Harbour (PBH) visa. Expiration of the visa in case of no other specific basis of residence in Poland results in suspension of the sole proprietorship.

[11] Act of 15 September 2000- The Commercial Companies Code.
Act of 6 March 2018 – on Central Registration and Information on Economic Activity and the Entrepreneur Information Point.
Act of 6 March 2018 – Entrepreneurs Law.
Act of 9 September 2000 – Civil Law Tax.
Regulation of the Minister of Justice of 28 June 2004- maximum rates of notary fees.



1a – filing a registration application with CEIDG;

1b – filing for registration for VAT purposes (if required; this can be done together with CEIDG registration);

1c – the day one can start business as sole proprietor;

2 – reporting information on insured persons to ZUS (within 7 days from the day of commencing business; this can be done together with CEIDG registration).

SOLE PROPRIETORSHIP

	Main step	Time
1.	Filing a registration application with CEIDG. Available either online through biznes.gov.pl or some banks' online services or in a city or municipal authority office. Registration documents are available in Polish only.	The sole proprietor can start his/her business on the day of filing.
2.	Sole proprietor is automatically assigned: Tax Identification Number (NIP) and Statistical Number (REGON), as well as registered as a social security contribution payer.	N/A
3.	Filing for registration for VAT purposes. Unless the sole proprietor falls under one of the exemptions, they will be a VAT payer, which results in the obligation to register with the proper tax office for VAT purposes. Available together with the registration application with CEIDG.	Filing – before performance of an activity subjected to VAT. Registration – in practice, within 2-3 weeks.
4.	Reporting the insured person (the sole proprietor) to the Social Security Institution (ZUS). Available together with the registration application with CEIDG. Also applicable with respect to any employees of the sole proprietor.	Making the report – within 7 days from starting operations.

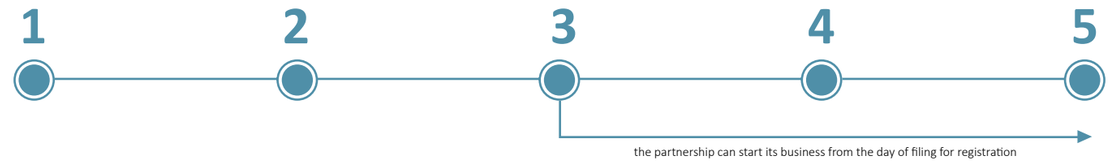
Title: Steps for setting up sole proprietorship

SOLE PROPRIETORSHIP

PROS	CONS
Registration within one day	Full liability for obligations
Free of charge	Unsuitable for big businesses
Startup relief binding for 2 years from registration	Available only for natural persons
Taxation of choice	
Flexibility in starting, changing and termination of business activity	

Title: Pros and cons of sole proprietorship

2. PARTNERSHIPS



1 – Concluding AoA;

2 – Filing a motion to registry court to register a partnership;

3 – Registration;

4 – Notification to Central Register of Real Beneficiaries;

5 – Filing for registration for VAT purposes.

PARTNERSHIPS

	Main step	Cost	Time
1.	Concluding the AoA: • in simple written form; • before a notary ; • through the S24 platform available online on: https://ekrs.ms.gov.pl/s24/strona-glowna (see below).	Notary fees (if apply) vary depending on the contributions. Tax on Civil Law Transactions (PCC) – 0.5% of the value of contributions made.	N/A
2.	Filing a motion to the registry court to register the partnership. A motion may be submitted only in electronic form through the Court Registry Portal (PRS) or S24 system.	PLN 600 or PLN 350 (the latter, in case the S24 platform is used).	N/A
3.	Registration of a partnership by a registry court. Tax Identification Number (NIP) and Statistical Number (REGON) are automatically assigned.	N/A	About 3- 4 weeks when registering through PRS. If registration is via the S24 platform, the registration process takes about 24 hours.
4.	The partnership can commence operations.		
5.	Notification to the Central Register of Real Beneficiaries of information on real beneficiaries.	N/A	7 days from registration.
6.	Filing for registration for VAT purposes (if required).	N/A	In general, before the date of the first sale of goods or services subject to VAT.

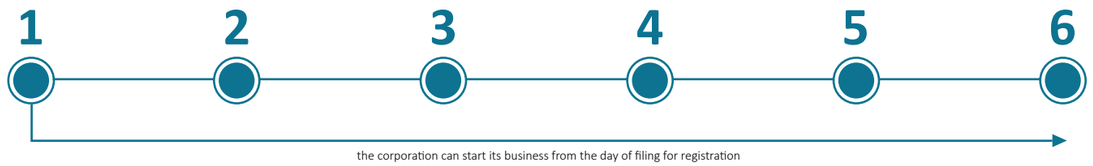
Title: Setting up partnerships set by step

PARTNERSHIPS

PROS	CONS
No capital requirements	Liability for obligations if partnership is insolvent (in general)
Providing work as a contribution is possible	Rather unsuitable for big businesses
Available for natural persons as well as for legal persons	Lack of representative body (in general)
Flexibility in creating AoA provisions	Lack of possibility to establish by one person (natural or legal, in general)
Possibility in some cases to dissolve without carrying out liquidation process	

Title: Pros and cons of partnerships

3. CORPORATIONS



1 – Concluding the AoA;
2 – Possibility to start operating as a corporation in organization;
3 – Filing a motion to the registry court to register a corporation;
4 – Registration;
5 – Notification to the Central Register of Real Beneficiaries;
6 – Filing for registration for VAT purposes.

CORPORATIONS

	Main step	Cost	Time
1.	Concluding AoA: • before a notary; • via the S24 platform (see below).	Notary fees (if applicable) vary from contributions but no more than PLN 10,000. Tax on Civil Law Transactions (PCC) – 0.5% of the value of contributions made to share capital.	N/A
2.	The corporation can commence operations.		
3.	Filing a motion to the National Court Register (KRS) to register the partnership. A motion may be submitted only in electronic form via the Court Registry Portal (PRS) or the S24 platform.	PLN 600 or PLN 350 (the latter, in case the S24 platform is used).	N/A
4.	Registration of a corporation by a registry court. Tax Identification Number (NIP) and Statistical Number (REGON) are automatically assigned.	N/A	About 3- 4 weeks when registering through PRS. If registration via the S24 platform, the registration process takes about 24 hours.
5.	Notification to the Central Register of Real Beneficiaries information on real beneficiaries.	N/A	7 days from registration.
6.	Filing for registration for VAT purposes (if required).	N/A	In general, before the date of the first sale of goods or services subject to VAT.

Title: Setting up a corporation in step by step

CORPORATIONS

PROS	CONS
Possibility to start operating before registration	Capital requirements
Lack of liability of shareholders/stockholders in case of insolvency	Providing work as a contribution is not possible
Suitable for small as well as big businesses	More formal than partnerships
Available for natural persons as well as for legal persons	
Operating through governing bodies appointed from among shareholders or professional managers	
Possibility to establish by one person (natural or legal, in general)	

Title: Pros and cons of corporations

Apart from the above steps of registering commercial companies – both partnerships and corporations – in relation to some of them, i.e. general partnerships, limited partnerships, limited liability companies and simple joint-stock companies, **it is possible to launch a company online via the S24 on-line platform.** This option requires **an electronic signature or Polish digital signature (ePUAP)** and offers limited possibility to adjust the wording of the AoA, and thus the Code names it a model AoA.

Establishing a company in this way is possible within one day, and does not require a notary public preparing documents, which reduces the costs of establishment.

It is also common in practice to purchase limited liability shelf companies from entities specializing in such transactions or from law firms. Buying a ready-made shelf company for a project is beneficial as the investor can become the owner of the company in one day, which is already registered in the Register of Entrepreneurs and has bank accounts set up. This reduces the time needed to start a business.

REGULATED BUSINESS ACTIVITY[12]

Having chosen the type of business, setting it up and planning business operations, an entity should note that in some cases certain extra steps are required. Although generally taking up, performing and terminating a business activity is free for everyone on an equal basis (which applies to any persons from European Union member states), in certain sectors obtaining appropriate permission is required.

Depending on the nature of the permission required, the following can be distinguished:

- concessions,
- permits, licenses and consents and
- entry in the Register of Regulated Activity.

All of the above entitle the holder to do business in Poland. The criteria on which the above types of permits have been distinguished are discretion and the degree of formalization of the process to obtain such permission. Knowing in advance that undertaking operations in certain sectors required the consent of an administrative office may prevent performing illegal actions and save time of an entrepreneur.

1. CONCESSIONS

The strictest regulation of business activity is the obligation to obtain a concession. This is due to the key importance of the sectors of the economy where concessions are required.

Concessions exists, i.a. in the following sectors (full list available here: https://www.biznes.gov.pl/pl/portal/00116#3):

Before issuing a concession, the authority conducts an investigation into whether the entrepreneur meets the conditions for carrying out a specific business activity.

Entrepreneurs planning to start a certain type of operation requiring a concession **can usually apply for a promise to issue a concession.** Applying for such can be a useful instrument aimed at strengthening the certainty of the possibility to perform envisaged business. The public authority is then bound by the promise for a certain period and generally cannot refuse to grant the promised concession.

[12] Act of 6 March 2018 – Entrepreneurs Law.

2. PERMITS

The obligation to obtain a permit before commencing operations is required only for conducting types of business activity specified by law. In most cases obtaining a permit is less formalized than obtaining a concession. The most notable difference is that – if the business-applicant meets all the criteria foreseen by law – they cannot be refused the permit.

Examples of business activity requiring permits are as follows (list in Polish available here: https://www.biznes.gov.pl/pl/portal/00116#3):

sale of alcohol

pharmacy operation

waste processing

bank operation

pension fund operation

investment fund operation

manufacturing of medicinal products

3. ENTRY IN THE REGISTER OF REGULATED ACTIVITY

Entry in the Register of Regulated Activity is the simplest form of regulating business activity. To be able to perform it, the entrepreneur is required to:

- fulfill certain conditions for its conduct;
- submit an application for entry in the Register of Regulated Activity;
- submit a statement on meeting the conditions required to carry out regulated activity.

The registers relate to the particular type of activity performed and are public. Examples of regulated activities include:

performing detective services

organizing tourist events

currency exchange business

telecommunication activity

production and bottling of wine products

MOST COMMON **FORMS FOR FOREIGN ENTITIES CONDUCTING BUSINESS ACTIVITY** IN POLAND

According to data provided by Transparent Data, the most common form of conducting business activity in Poland is the **sole proprietorship. These types of business operations have been chosen by more than 2.5 mln natural persons. According to the data shared by money.pl[13], for 2021 the number of foreigners operating in this form reached more than 780,000 persons. Currently, the number is surely much higher due to the general trend in the increasing number of foreigners in Poland.**

The second most popular form of doing business is the form of a commercial company – **limited liability company with more than 448,000 entities overall. According to data provided by Statistics Poland[14], the number of entities with foreign capital for 2021 was more than 23,000. The vast majority of these established in 2023, reaching almost 93% was LLC.**

In the case of sole proprietorship, its popularity may be explained by the fact that there is no need to engage any funds to start a business and the immediate possibility of starting business operations, as well as minimum formality. Therefore, if a person is willing to carry out business operations and take on the whole responsibility for potential failure of the venture, such type of business activity is strongly recommended. Due to the above mentioned reasons, sole proprietorship is highly popular within the IT sector, especially programmers who specifically appreciate its flexibility, startup reliefs binding for two years from the moment of setting up, and comfortable taxation of a sole trader's choice.

Limited liability companies, on the other hand, are popular thanks to their flexibility which results in low level engagement of funds, as well as being a convenient solution for persons or entities planning to operate in the future on a greater scale. This is accompanied with shareholders' limited liability, which involves no liability for the company's obligations in case of setback. Responsibility for obligations does not rest on the company itself, but on members of the Management Board (but with the chance to be released from such responsibility in some cases). Followed by clear rules of functioning regulated thoroughly in the Commercial Companies Code, the LLC company remains highly popular among businesses intending to become low risk ventures regardless of the origin of the investor.

[13] PRC, (2021), Obcokrajowcy zakładają firmy w Polsce. Głównie Ukraińcy, money.pl, [access: 7th September 2022], available on: https://www.money.pl/gospodarka/obcokrajowcy-zakladaja-firmy-w-polsce-glownie-ukraincy-6644895570205280a.html
[14] Statistics Poland, Economic activity of enterprises with foreign capital in 2020, Warsaw 2021, available on: stat.gov.pl.

TAX ASPECTS
of conducting business activity in Poland

03.

The Polish tax system is relatively young (established in the early ‘90s), but it has rapidly evolved over the years, both in terms of the regulations themselves, as well as the treasury (tax audits), development of tax judicatory, and digitalization.

In particular, in recent years, it has undergone a number of changes in order to seal the tax system. Some of the changes resulted from the need to implement EU directives, or were inspired by the OCED work focused on prevention of base erosion and profit shifting (the so-called BEPS package).

Many changes however were aimed at simplifying the tax system[15], introducing digital reporting[16] and digitalization of tax settlement, as well as introducing new tax reliefs[17].

Further, in recent years Poland has also introduced new regulations supporting the tax certainty and tax attractiveness of investments, such as:

INTRODUCTION OF THE POLISH INVESTMENT ZONE which allows – under certain conditions – to obtain CIT exemptions on income from investment[18]

INVESTMENT AGREEMENT – a tax ruling dedicated to strategic investors which may cover all key tax aspects of the investment

CO-OPERATIVE COMPLIANCE PROGRAM – a newly introduced solution involving an agreement between the tax payer and the Head of the National Fiscal Administration which grants more tax certainty on tax settlements and additional tax preferences (in particular in terms of, i.a. required tax compliance)

INVESTORS’ DESK – a “one stop shop” for investors, dedicated both for the process of concluding the Investment Agreement and for the ongoing tax service of the investor

[15] E.g., the SLIM VAT package – a series of changes aimed at simplifying and limiting ineffectiveness in VAT settlements and reporting.
[16] Introduction of Standard Audit File or pre-filing of PIT returns for employees.
[17] Such as IP BOX, automation relief or introduction of a lower 9% corporate income tax rate for so-called small taxpayers.
[18] The exact value of the tax incentive, as well as the eligibility of the investment depends on the detailed parameters of the project (e.g. CAPEX, number of jobs created, location etc.) – see further parts of the report.

Also, in recent years the tax administration has undergone some important changes including the structural reform of the National Fiscal Administration and some key developments in the area of digitalization. The latter covered digitalization of tax reporting in the area of VAT (i.a. introduction of Standard Audit File or the currently planned introduction of the e-invoicing system) and pre-filing of PIT tax return for employees (so-called e-PIT). Some digital tools and processes to better use and manage the tax data have also been developed.

Moreover, the Ministry of Finance is currently conducting advanced works on improving the digital interface which will introduce the ability to handle tax matters comprehensively online, mainly in the areas of VAT, PIT and CIT (so-called e-US). Further, e-US users will not incur stamp duty on certificates issued.

TAX SYSTEM IN A NUTSHELL

3 key indirect taxes: VAT, excise, gambling tax
4 key direct taxes: CIT, PIT, real estate tax, civil transaction tax

Targeted charges / levies: i.a. sugar tax, retail tax, special charge on Video on Demand (VOD) platform operators

16 Chambers of Fiscal Administration, 400 Tax Offices, 20 specialized Tax Offices (including a Tax Office dedicated to large taxpayers) and a Tax Office specially dedicated to withholding tax settlements

16 custom and revenue offices with 45 delegation offices and 143 divisions

6 key instruments to secure tax position including: (i) individual tax rulings, (ii) Advanced Pricing Agreement, (iii) Withholding tax opinion, (iv) security opinion on application of General Anti-Abuse Rule (GAAR), (v) binding tax excise / tariff / VAT rate information, (vi) Investment Agreement for Strategic Investors

Complex set of tax reliefs supporting investment, R&D and innovation: Polish Investment Zone, R&D relief, IP BOX relief, relief for prototype products and relief for automation

Co-operative compliance program for large tax payers and Investors’ Desk for Strategic Investors

Poland is a signatory to 90 double tax treaties (DTTs) on preventing double taxation

KEY TAX REPORTING DEADLINES IN BRIEF

By 31st January and then by 15th of each following month – real estate tax for legal entities

By 25th of each month – VAT reporting[19]

By 30th March – deadline for CIT tax returns[20]

By 30th April – PIT yearly reporting (all business, capital gains, employment)

[19] Some taxpayers can also settle VAT quarterly.
[20] In case of tax payers whose tax year equals the calendar year.

KEY FORMS OF SECURING TAX POSITION

INSTRUMENT	WAITING TIME	SCOPE
Individual ruling of the Minister of Finance / local government tax authorities	3 months	All taxes can be covered, however it is not possible to obtain a ruling for protection with respect to application of, i.e. anti-abusive rules.
Advanced Pricing Arrangements (APA)	Without undue delay, but no longer than 6 months / 1 year / 18 months depending on the type of agreement (in practice, the waiting period is longer).	Conditions used in prices of transactions with related entities.
Security opinion on withholding tax (WHT)	Without undue delay, but no longer than within 6 months (in practice, the waiting period is longer).	Securing the right to apply the WHT exemption, based on the implemented rules of EU Directives for payments such as dividends, interest or royalties, as well as preferences resulting from DTT.
Security opinion on the application of GAAR	Without undue delay, but no longer than within 6 months.	Possibility to apply for confirmation of treatment of an event from the perspective of anti-abusive provisions (GAAR).
Binding Excise Information	Up to 3 months, with the possibility of extending the procedure.	Decision on the classification of excise goods and passenger cars according to the Combined Nomenclature (CN) or determining the type of excise goods. In general, valid for 5 years from its issue (may be rescinded earlier if excise law is amended after the issue).
Binding Tariff Information (BTI)	120 days from the date of acceptance of the application (the acceptance should be done within 30 days from receipt of the application).	Binding confirmation of the EU Customs Tariff code for specific goods. Valid in all EU countries for a period of 3 years from the date on which the decision takes effect. Once received, it has to be indicated in all customs clearances of the relevant goods.
Binding Rate Information	Up to 3 months, with the possibility of extending the procedure.	Confirmation of the VAT rate on goods and services offered by the taxpayer.
Investment Agreement	Depends on the length of the negotiation process.	An agreement between an investor and tax authorities, which sets out the tax consequences of a planned investment on a complex level.

KEY TAXES RATES IN POLAND – OVERVIEW

PIT

In particular, the PIT Act provides progressive taxation for two thresholds:

- for income up to PLN 120 000 (approx. EUR 26k[21])- 12% less PLN 3 600;
- over PLN 120 000 – PLN 10 800 (approx. EUR 2.3k[22]) + 32% on the surplus over PLN 120 000.

In the case of income exceeding PLN 1 mln (approx. EUR 220k), taxpayers are additionally obliged to pay the so-called solidarity duty of 4% exceeding PLN 1 mln.

In the case of income from individual business activity, it is also possible to choose a 19% flat rate or lump sum tax (rates between 2%-17%).

Lump sum tax in practice can be very attractive for individual business activities, especially in the area of IT services, where the tax rate is 12% or in some cases – even 8.5%.

[21] Average National Bank of Poland EUR/PLN rate as at 11.09.2023 at 4.6209.
[22] Average National Bank of Poland EUR/PLN rate as at 11.09.2023 at 4.6209.

CIT

Standard rate - 19% but reduced tax rates / exemptions are possible:

- **10% / 20% CIT** payable when profits are distributed in case of the so-called lump sum CIT regime (see below);
- **9% CIT** for so-called small tax payers (whose revenues do not exceed EUR 2 mln);
- **5% for income from qualified IP** under preferential IP BOX regime;
- **CIT exemption** - for income generated within a so-called Special Economic Zone / Polish Investment Zone.
- **CIT exemption** – for income generated by a family foundation from business activities listed in the law. Distributions to beneficiaries of family foundation are subject to 15% CIT.

VAT

Standard rate- **23%**. In some cases, **reduced rates (5% and 8%) or exemptions** are applied.

Withholding Tax

- **19%** - standard rate in the case of dividend payments and certain other forms of profit distribution and participation in profits of the legal entity,
- **20%** - standard rate for the payment of royalties, interest or remuneration for certain services.

Basic WHT rates may be reduced (even to „0") under the provisions of relevant agreements on the avoidance of double taxation, or exempted on the basis of domestic provisions implementing relevant EU Directives.

Tax on Civil Law Transactions

Standard rates depend on the subject of the transaction:

- for capital transactions (loans, share capital increase) – **0.5%**,
- for sale of real estate (if the transaction is outside of VAT or is VAT exempt) – **2%**,
- **1%** on the acquisition of property rights executed in Poland or property rights executed abroad if the buyer is seated in Poland and the transaction was performed in Poland. In practice, shares / stock are considered property rights,
- **6%** on the acquisition of sixth and subsequent apartment in the same building or in different buildings, but located on the same plot of land. In addition, tax on civil law transactions will be due also if the acquisition of such apartment is subject to VAT.

Exemptions or exclusions for certain types of activities are also possible (e.g. exemption for certain shareholder loans).

Real Estate Tax (RET)

Different **rates depending on the area and purpose of the property and commune.**

For 2024, the maximum statutory rates for key real estate are:

- Land plots related to business operations- PLN 1.34 / m2
- Residential buildings- PLN 1,15 / m2
- Buildings related to business operations- PLN 33.10 / m2
- Structures - 2% of their value (often it is the value adopted for income tax depreciation purposes without deduction of depreciation write-offs).

Maximum statutory rates are adjusted every year for land and buildings by the amount depending on the inflation rate.

RET exemptions are also possible (e.g. barren land, land occupied by port infrastructure, port structures).

SELECTED OTHER "QUASI" TAXES / CHARGES

Minimum Tax for commercial real estate[23]	The tax base is the initial value of the property less the so-called safe harbour in the amount of PLN 10 mln per taxpayer, irrespective of the real estate held, while the tax rate is 0.035% per month (0.42% per year). It is deductible from monthly advance CIT payments and from CIT due for the whole year, on an annual basis. The minimum tax, not deducted in a given year, can be refunded upon the taxpayer's request.
Sugar Tax[24]	The sugar tax ("levy on food products") is **payable upon placing on the market** (sale to retail outlets or directly to consumers) beverages with the addition of: • sugars (monosaccharides, disaccharides or foodstuffs containing these substances) • sweeteners referred to in Regulation (EC) No. 1333/2008 of the European Parliament and of the Council (e.g. xylitol, sorbitol, aspartame) • caffeine or taurine. **The tax for each liter of a drink is the sum of:** • PLN 0.50 of a fixed fee - for the content of sugars in an amount equal to or less than 5 g in 100 ml of a drink or for the content of at least one sweetener (in any amount), and • PLN 0.05 of a variable fee - for each 1 g of sugar over 5 g in 100 ml of a drink. Drinks with the addition of caffeine or taurine are subject to an additional fee of PLN 0.10 per liter of a drink. The fee may not exceed a maximum of PLN 1.2 per 1 liter of a drink. Certain types of beverages enjoy exemption from the sugar tax.
Retail Tax[25]	Retail tax is imposed on retailers who generate revenue from retail sales exceeding the threshold of PLN 17 mln in a given month. Revenue from retail sales is determined based on sales volume recorded in the cash registers (increased by value of sales exempt from recording and decreased by amounts paid back upon return of goods). Revenue from retail sales is calculated net of VAT. The tax rates are as follows: • 0.8% of the taxable revenues exceeding the threshold of PLN 17 mln till the threshold of PLN 170 mln is reached; • 1.4% of the excess of the taxable revenues over PLN 170 mln. Retail sale of certain goods is exempt from retail tax.

CORPORATE INCOME TAX – KEY CHARACTERISTICS[26]

1. SCOPE OF CIT TAXATION

In particular, the following entities are subject to CIT in Poland:

- Limited liability company and joint-stock company (Sp. z o.o., S.A)
- Simple joint-stock company (PSA)
- Limited joint-stock partnership (SKA)
- Limited partnership (SK)
- Family foundation
- Tax Capital Group (PGK), consisting of Sp. z o.o., S.A. or PSA

[23] Minimum Tax for commercial real estate is regulated in the Corporate Income Tax Act of 15 February 1992.
[24] Sugar Tax is regulated in the Act of 11 September 2015 on Public Health.
[25] Retail Tax is regulated in the Act of 6 July 2016 on Retail Sales Tax.
[26] CIT taxation is regulated under the Act of 15 February 1992 on Corporate Income Tax.

Non-resident taxpayers are subject to tax in Poland only on income derived/generated in Poland.

Tax transparent entities include:

- General partnership (sp. j.), – unless certain conditions are not met, then they can be treated as CIT taxpayers,
- Professional partnership (spółka partnerska, applicable only to selected professions).

In general, they are treated for tax purposes as tax transparent, which means that the income obtained is taxed at the level of their partners. The situation may be different if the partnership is a so-called permanent establishment for tax purposes. Then, as a rule, the income from its operations is subject to CIT in Poland on general principles (e.g. when a partnership with foreign investors owns property in Poland).

2. TAX RATES

In principle, **the basic rate is 19%**, but preferential taxation rules also exist:

- 10% or 20% CIT payable only when profits are distributed under the preferential so-called lump sum regime,
- 9% CIT – (i) for so-called small taxpayers, given that their revenues earned in a tax year did not exceed EUR 2 mln per year (applicable to revenues other than from capital gains only) and (ii) companies for the year in which they started their activity,
- 5% CIT – for income from so-called qualified intellectual property rights (IP BOX),
- CIT exemption - for income generated within a so-called Special Economic Zone / Polish Investment Zone,
- CIT exemption - for income generated by a family foundation from business activities listed in the law. Distributions to beneficiaries of family foundation are subject to 15% CIT.

3. CIT SETTLEMENT AND REPORTING

- Advances on CIT are paid:
  - on a monthly basis (general rule)
  - quarterly (option for small tax payers only)
- The final CIT settlement is made within 3 months after the end of the tax year (by 30 March for CIT tax payers having a tax calendar year).[27]

4. BASE OF TAXATION – GENERAL RULES

- There are two separate revenue sources: income and costs related to so-called business activities (e.g. rental of real estate) cannot be combined with income related so-called capital gains (e.g. from the sale of shares, dividends, etc.). The income from each activity is taxed separately at a basic rate of 19%.
- In general, revenue is taxable when due, there are certain exceptions to this rule, e.g. interest which is taxable when received. Interest is allocated to one or another source of revenue depending on the type of activity it is related to.

5. UTILIZATION OF TAX LOSSES (YEARS)

Carry-back: N/A (save for specific COVID-19 regulations for 2020 tax losses – if a taxpayer incurred a business loss in 2020 due to the COVID-19 pandemic, and the company's revenue fell by at least 50% in that year compared to the revenue earned in 2019, it is entitled to deduct the 2020 loss once from the income earned in 2019, up to PLN 5 mln).

Carry-forward: Tax losses can be settled within the given source of revenue „forwards" in the next five consecutive years, however, the reduction in any of these years may not exceed 50% of this loss. With respect to a tax loss, from a given source of income, incurred in a tax year commencing after 31 December 2018, it is possible, alternatively, to reduce the income from this source in one of the following five years, but by no more than PLN 5 mln (approx. EUR 1 mln). The non-deducted amount can be deducted within this 5-year period, however the amount of the reduction, in any of these years cannot exceed 50% of the amount of this loss.

[27] During the pandemic, the deadline was extended in recent years.

6. THIN-CAPITALIZATION RULES

- Debt financing costs (incurred for both related and unrelated entities) may, in principle, constitute tax deductible expenses when paid up to an amount not exceeding 30% of tax earnings before interest, tax, depreciation and amortization (tax EBITDA) or PLN 3 mln (approx. EUR 630 k), whichever is higher.
- Interest can be tax deductible when paid (not accrued).

7. NOTIONAL INTEREST DEDUCTION (NID)

Companies can deduct so-called notional interest calculated as the National Bank of Poland basic reference rate increased by 1 p.p multiplied by:

- additional payments made for a company according to the Commercial Companies Code, or
- retained profits

– up to the amount of PLN 250 000 annually (approx. EUR 53k).

8. DEPRECIATION OF FIXED ASSETS AND EXPENSES FOR THE PURCHASE OF LAND

- Land is not subject to depreciation and expenses incurred for its purchase (including interest and f/x differences accrued up to the date of hand-over for use) are tax deductible upon its disposal.
- Costs incurred for acquisition or development of fixed assets (investment costs), e.g. buildings, structures, machinery, equipment, etc., as well as acquired intangible assets (e.g. licenses, rights to computer programs), including financing costs accrued until the date of handing over the asset to use, are in principle settled through depreciation (assuming the assets are to be used in the business activity of the taxpayer for not less than a year).
- Depreciation rates vary depending on the type of fixed asset or intangible asset. For example, the depreciation rate for non-residential buildings is 2.5%, for residential buildings - 1.5% (in 2022), and for certain structures- 4.5%.
- Specific rule applies to so-called real estate companies: as of 1 January 2022, only depreciation write-offs of fixed assets classified as Group 1 of the Classification of Fixed Assets (i.e. buildings, premises, co-operative right to commercial premises and co-operative ownership right to premises), which do not exceed depreciation or amortization write-offs recognized for accounting purposes (i.e. those charged to the financial result of a given entity), are tax deductible costs for real estate companies.
- As of 1 January 2023, the possibility of tax depreciation of **residential properties** is excluded. Until that day, tax payers were allowed to treat the depreciation write-offs on such assets as tax deductible, but only with respect to residential properties acquired or constructed by the end of 2021. It should be noted that the new provisions concern both CIT and PIT taxpayers and do not in fact provide for any grandfathering rules (except for the one mentioned above). This means that in practice, since 1 January 2023, residential properties are not be subject to tax depreciation irrespective when they were constructed or acquired.

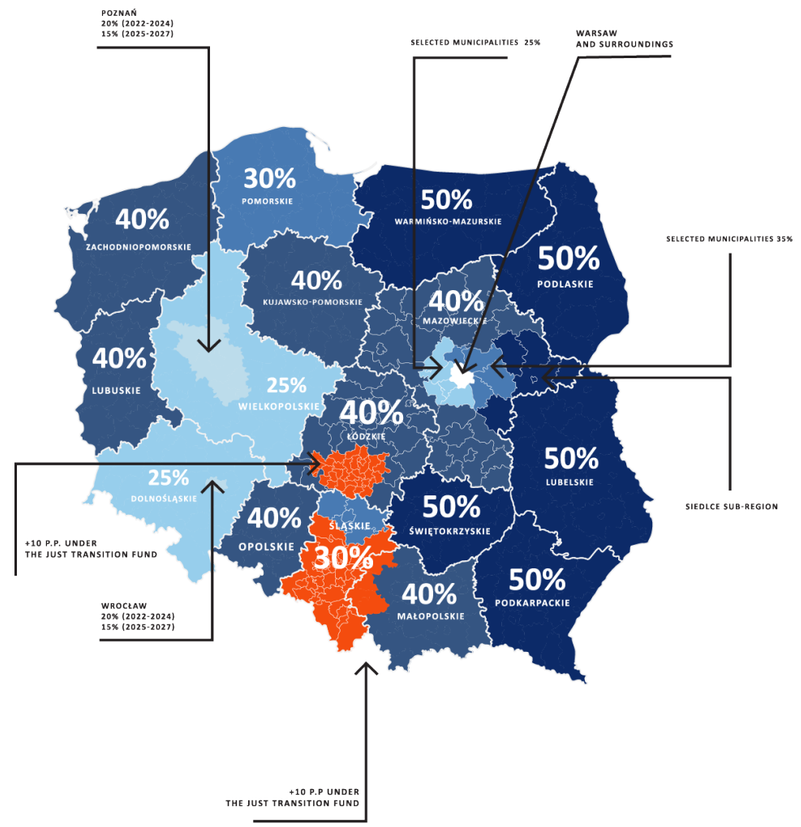
9. KEY TAX PREFERENCES AND KEY PRINCIPALS OF REGIONAL AID RULES

9.1 REGIONAL AID AND MAXIMUM AID INTENSITY

State aid (in the form of, e.g. cash grants, income or property tax exemptions, employment subsidies) granted for the undertaking of initial investments is called regional aid. As such, its level is determined on the basis of:

- the location of the investment (and not the company's headquarters), and
- the size of the company.

The level of state aid is calculated as a ratio of the value of state aid to the costs eligible for support. The maximum level of state aid is calculated for a large enterprise according to the so-called Regional Aid Map, presented below.



Regional Aid Map, as of September 2023[28]

Intensity level for large enterprises
Bonus for SMEs: +10 p.p. for medium-sized enterprises, +20 p.p. for micro and small enterprises.
Only a few municipalities within the Warsaw Capital Region will continue to be eligible for regional investment aid

[28] Regulation on the establishment of a regional aid map for the period 2022-2027 (Dz. U. 2021 poz. 2422).

One of the basic investment incentives available to entrepreneurs in municipalities is exemption from local taxes and charges. The support may be granted either as Regional Aid or de minimis Aid. Applicable aid intensity is based on the Regional Aid Map and it applies to so-called Initial investments.

Eligible costs cover costs of investments in tangible fixed assets (land, buildings and plant, machinery and equipment) and in intangible assets (patents, licences, know-how) or 2-year labour costs related to jobs created as a result of the investment.

9.2 2023 REVISION OF GBER TO ENCOURAGE GREEN AND DIGITAL TRANSITION IN THE EU

On June 23, the European Commission officially approved the package revisions to the General Block Exemption Regulation (GBER) and the Temporary Crisis Framework with the aim of enabling Member States to provide necessary support to key sectors in line with the Green Deal Industrial Plan in order to accelerate the EU's green and digital transition. The amendments adopted by the Commission will grant more flexibility to design and implement support measures in sectors that are key for the transition to climate neutrality and a net-zero emissions industry. These changes will accelerate investment and financing for clean technology production in Europe, and contribute to the recovery of the European economy, which has been severely affected by COVID-19 and by the economic consequences of the Russian invasion of Ukraine.
A prolongation of the GBER until the end of 2026 is aimed to provide legal certainty and regulatory stability.

The revision of the GBER mainly concerns the following aspects:

- Regional investment aid: the method of calculation so-called "adjusted aid amount" applicable to large investment has been modified, thus increasing the available state aid for projects (details in section 9.2)
- an extension and facilitation of the possibilities for aid in the area of environmental protection and energy was introduced (such as to support the rollout of renewable energy, facilitate investments in green hydrogen, support decarbonisation projects, increase energy efficiency or support green mobility);
- a facilitation of the implementation of certain ICPEI-related projects was introduced by means of higher aid intensities and notification thresholds;

Moreover European Commission decided to increase very significantly notification thresholds for environmental aid as well as aid for RDI projects. For example in case of "Aid for research, development and innovation" the maximum amount of aid per company per project, has been increased to following levels:

a) if the project mainly involves industrial research up to EUR 35 mln (was EUR 20 mln),
b) if the project mainly involves experimental development up to EUR 25 mln (was EUR 15 mln);

EC introduced new articles to block exempt aid including:
- Investment aid for clean mobility;
- Investment and operating aid for hydrogen;
- Investment aid for carbon capture and storage (CCUS);
- Operating aid for renewable energy communities;
- Reduction of environmental taxes or parafiscal levies;
- Investment aid for the protection or restoration of biodiversity;
- Investment aid for resource efficiency and to support the circular economy.

9.3 TEMPRORARY CRISIS FRAMEWORK

The outbreak of war in Ukraine exert a negative impact on the European Union's economy. The prices of energy resources: thermal coal, natural gas, oil and its products have skyrocketed in 2022, affecting all sectors of the EU economy and every citizen. Economic links between the East and the West were suddenly disrupted.
To enable member states to quickly support affected businesses, the European Commission adopted in March 2022 the Temporary Crisis Framework. They opened up the possibility of granting support to businesses affected by the war in Ukraine, sanctions, and retaliatory measures adopted by Russia. The Framework did not create new EU funds, but provided a pathway to dispose of funding from state budgets to entrepreneurs quicker.

The Temporary Crisis Framework has already been amended by the European Commission several times to adapt them to the changing nature of the crisis. While they originally offered the possibility of giving entrepreneurs a quick cash injection to cover soaring energy costs, provide guarantees

or perform moderate investments, the Framework is now directed at supporting green investments. The logic behind this intervention is to make the Community less dependent on Russian hydrocarbons.

Currently, the Framework allows for support in the form of guarantees, subsidized loans, electricity and natural gas cost subsidies, investments in RES, energy storage, energy efficiency, electrification of industrial processes and the use of hydrogen.

Aid to support investment in RES is dedicated to the following objectives

- Investments in the production of energy from renewable sources, including the production of renewable hydrogen and renewable hydrogen-based fuels, but excluding the production of electricity from renewable hydrogen;
- Investments in storage of electricity or heat
- Investments in storage of renewable hydrogen, biofuels, bioliquids, biogas

A separate, but related area of assistance is support for accelerating electrification and energy efficiency measures in industry, as well as the introduction of renewable hydrogen and electrolytic hydrogen technologies.
The framework allows for the introduction of support in the form of direct grants, repayable advances, loans, guarantees or tax benefits including tax credits. Support for both of the above areas can be awarded until December 31, 2025.

From the point of view of Polish entrepreneurs one of the most important initiatives was the 2022 program compensating increase in the cost of electricity and natural gas. Support was granted to the energy-intensive enterprises and those conducting business activities in line with the program's business activities codes list.
The Polish government is currently preparing another aid program (2023 edition) dedicated to the same purpose. Its budget is as much as PLN 5.5 billion. The aid will be available to those energy-intensive companies that conduct their predominant activities in the business activities codes list specified in the program. Energy-intensive companies are those whose costs of electricity and natural gas in 2021 represent a minimum of 3% of the value of production sold. The amount of basic aid will be 50% of eligible costs (i.e., the increase in energy costs) of up to €4 mln, calculated in total for all affiliated enterprises registered in Poland. Once additional conditions are met, it will be possible to apply for aid with an intensity of as much as 80%. It represents a significant cash infusion for the companies most affected by the energy crisis.
The introduction of the Temporary Crisis Framework and the national aid programs based on it are a proof of the efficient cooperation between EU and government institutions. The inflow of funds to companies has allowed them to mitigate the effects of Russia's economic warfare.
Full list of Polish aid programs and positive decisions of the European Commission on Polish matters is available on Office of Competition and Consumer Protection (UOKIK) website: https://uokik.gov.pl/tymczasowe_kryzysowe_ramy_prawne.php

9.4 POLISH INVESTMENT ZONE (PIZ)

Incentives for new investment under the framework of PSI are available on the territory of Poland where regional investment aid is available (in accordance with the map on page 31). The instrument provides for a CIT exemption for income generated by activities covered by a decision on support and conducted within the territory of the investment. PIZ allows for up to 15 years of CIT exemption when quantitative, but also qualitative, criteria are met. It is worth mentioning that as of 1.01.2023, new implementing regulations for PIZ came into force. The key change is the postponement of the start of the use of the exemption only from the day following the date of completion of the investment.

Form of support	Corporate income tax exemption
Who can apply	Enterprises
Relevant institution	Direct: Special Economic Zone (SEZ) Managing Companies Supervisory: Ministry of Economic Development and Technology
Type of eligible projects	Incentives for new investment under the framework of PIZ are available across the entire territory of Poland (excluding Warsaw and surroundings), for companies carrying out new investment projects on publicly, as well as privately owned land. The regulation that governs PIZ[29] includes a list of business activity codes (PKWiU) excluded from this support (i.a.: weapon, ammunition, alcohol, tobacco products, explosives, steel, electricity and gas). The entrepreneur has 10, 12 or 15 years to utilize the tax exemption: **10 years:** in regions with a max. intensity of 20%, 25% **12 years:** in regions with a max. intensity of 30%, 35% and 40% **15 years:** in regions with a max intensity of 50% or on land located at least 51% within the boundaries of a SEZ **See the above map for maximum intensity across regions of Poland**
Eligible costs	Capital expenditures (CAPEX): e.g. real estate, tangible fixed assets, (land, buildings and plant, machinery and equipment) and intangible assets (patents, licences, know-how) **OR** 2-year labour costs related to jobs created as a result of the investment increased by obligatory contributions, such as social security contributions.
Project value /support value range	The minimum project value ranges from PLN 0,1 mln to PLN 100 mln depends on the location of the investment (unemployment rate or the status of a location at risk of exclusion), the size of the entrepreneur, the range of services provided and the nature of the investment (e.g. reinvestment).
Support intensity	Applicable aid intensity as presented in the Regional Aid Map

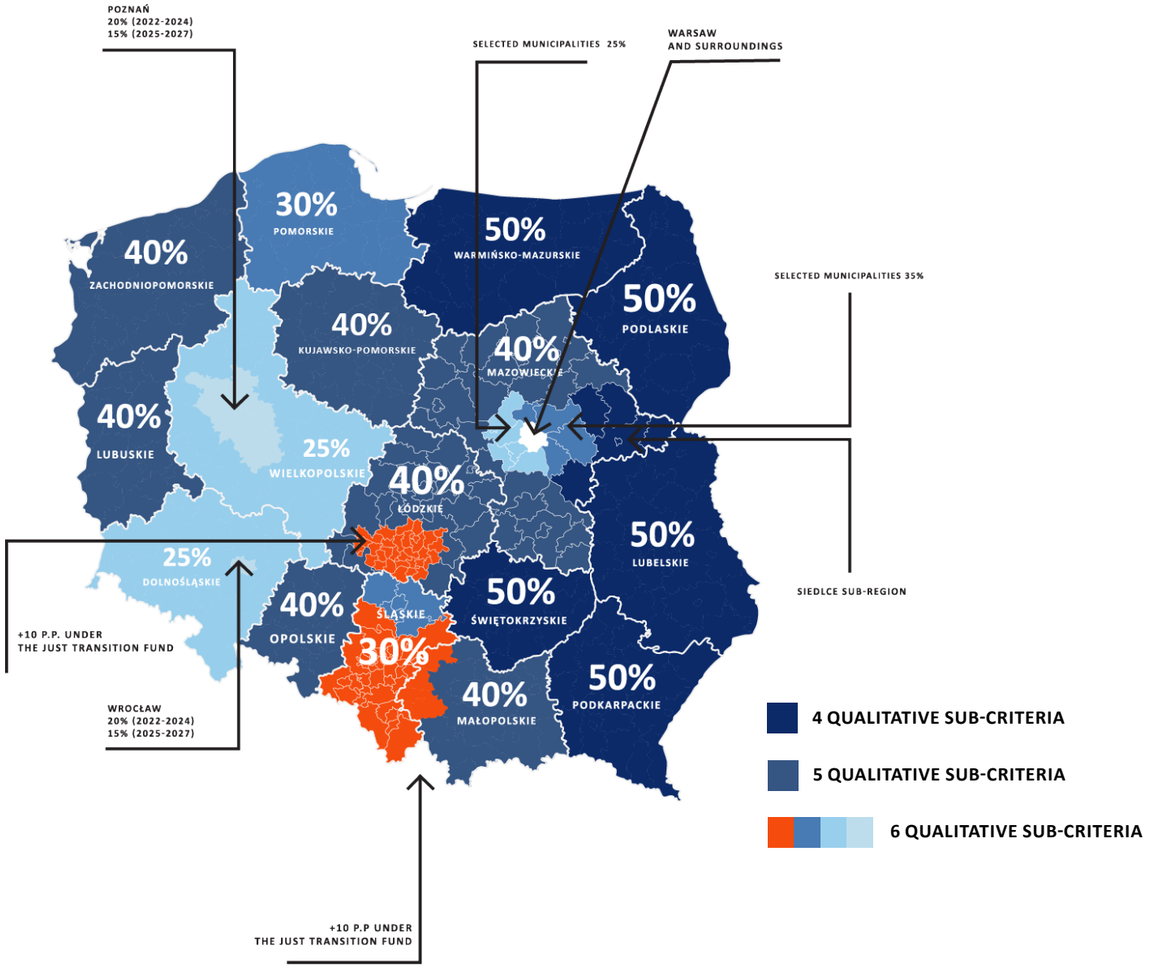
[29] Act of 10 May 2018 on Support for New Investments (Dz. U. 2018 poz. 1162).

Procedure	Applications are collected on an ongoing basis. 1. Documentation should be submitted to the Special Economic Zone Managing Companies. 2. Applications are evaluated based on meeting formal conditions, **quantitative criteria, and qualitative criteria** (see below). 3. The decision is issued on behalf of the Minister of Economic Development and Technology by the Special Economic Zone Managing Companies.
Quantitative and qualitative criteria	Qualitative criteria: the criteria that an industrial design and a service design must meet are slightly different. In the case of the industrial sector, the entrepreneur can choose from 13 sub-criteria, broken down into the criteria of sustainable social development (8 sub-criteria) and sustainable economic development (5 sub-criteria). In the case of the service sector, the list includes 12 sub-criteria (criteria of sustainable social development – 7 sub-criteria and sustainable economic development – 5 sub-criteria). In both cases, **it is necessary to meet a total of 4, 5 or 6** sub-criteria (depending on the region of the investment implementation) – **see the map below to check the points for given region.** The number of criteria that a project must meet depends on the location of the investment: • 4 sub-criteria in regions where the aid intensity is 50% • 5 sub-criteria in regions where the aid intensity is 40% • 6 sub-criteria in other locations **It is required that at least:** • min. 1 sub- criterion from the criterion of sustainable economic development and • min. 1 sub-criterion from the criterion of social sustainability **are met.** The list of quantitative criteria is the following: 1. Criteria of sustainable social development: i. Investment in service projects that support industries that are in line with the country's current development policy or with the voivodeship's intelligent specializations ii. Leveraging the potential of human resources iii. Creating regional connections iv. Robotization and automation of processes v. Membership in the National Key Cluster (not available for the service industry investment projects) vi. Conducting R&D activities vii. New investment in renewable energy sources viii. Status as a micro-entrepreneur, small entrepreneur or medium-sized entrepreneur 2. Criteria of sustainable economic development: i. Creation of specialized work places ii. Conducting economic activities with low negative impact on the environment iii. Location of investments iv. Supporting the obtaining of education and professional qualifications v. Taking measures in the area of employees' care Quantitative criteria: The quantitative criteria are the minimum required eligible costs of a new investment that must be incurred to receive a tax exemption. The quantitative criteria depend on the level of unemployment in the county where the investment is to be made. The lowest required costs are in counties with high levels of unemployment and in selected medium-sized cities losing socio-economic functions.

Key additional information

Key assessment criteria:

- Investment in projects supporting industry sectors prioritized by the current development policy in which Poland can gain a competitive advantage,
- Key National Cluster membership,
- R&D activity,
- Creation of specialist jobs to conduct business activity as part of the new investment project with secure employment guarantees businesses,
- Low negative impact on the environment,
- Investment location.



MAXIMUM AMOUNT OF REGIONAL AID = R × (A + 0,50 × B + 0 × C)

where:

R is the maximum aid intensity applicable in the area concerned

A is the initial EUR 55 mln of eligible costs

B is the part of eligible costs between EUR 55 mln and EUR 110 mln

C is the part of eligible costs above EUR 110 mln

Note:

Under GBER (General Block Exemption Regulation), notification to European Commission is not necessary for projects which do not exceed EUR 110 mln

Maximum aid without notification (depending on regional aid threshold) amounts to:

- **10% – EUR 8.25 mln**
- **15% – EUR 12.38 mln**
- **20% – EUR 16.5 mln**
- **25% – EUR 20.63 mln**
- **30% – EUR 24.75 mln**
- **35% – EUR 28.88 mln**
- **40% – EUR 33 mln**
- **50% – EUR 41.25 mln**
- **60% – EUR 49.5 mln**
- **70% – EUR 57.75 mln**

Example – Production project:

- Location: Opole (40%- aid intensity)
- Capex: 80 mln EUR

MAXIMUM PUBLIC AID FOR THIS PROJECT IS:

40% X (55 MLN EUR + 0,50 X 25 MLN EUR + 0) = 27 MLN EUR

9.5 GOVERNMENT GRANTS

Government Grants are awarded on the basis of the Program for the Support of Investments of Major Importance for the Polish Economy for 2011-2030 (the „Program") and they are granted under bilateral agreement between an investor and Minister of Economic Development and Technology.

The Program provides for two titles available for support:
(i) Grants for the creation of new jobs
(ii) Grants for eligible costs of new investment (investment grant).

Support opportunities

Grants for the creation of new jobs

Type of investment	Minimum investment (mlnPLN)	Minimum employment	Other requirements	Maximum support (per job, in kPLN)[30]
R&D Centre	1	10******	High-advanced processes	up to 40**/ 30***/ 20****, 15*****
Business Services Centre	1	100	Intermediate/Advanced/ High advanced processes	up to 15**** / 7,5*****

** in the case of the creation of at least 200 new jobs or having the status of a research and development center, regardless of the location of the investment

***in the case of the creation of at least 100 new jobs, regardless of the location of the investment

**** in the case of localization of the investment in an area of the country where the maximum intensity of regional aid is 50%, or in an area at risk of exclusion

***** in the case of an investment located in the rest of the country

****** with higher education degree only

[30] Possibility of increasing support due to employee training

The maximum amount of support for the creation of new jobs is calculated taking into account the number of new jobs planned to be created, the maximum intensity of support and the number of points obtained in the qualitative assessment of the investment, according to the following formula:

Amount of support (PLN) = a × b × c ÷ 10,
- a- number of newly created jobs,
- b- maximum intensity of support per one newly created job (PLN),
- c- final result of the qualitative assessment of the investment.

Qualitative criteria for these kind of investments are as follow:
i. Type of processes performed
ii. Research and development activity
iii. Exploiting the potential of human resources
iv. Robotization and automation of processes
v. SME status
vi. Creation of high-paying and stable jobs
vii. Investment in building with low negative environmental impact
viii. Support sustainable territorially balanced development of the country
ix. Supporting the acquisition of education and professional qualifications and cooperation with industry education
x. Taking activities in the field of caring for employee

The investor can receive maximum 10 points in the quality assessment of the investment.
An entrepreneur may receive support if obtains at least:
1) 4 points – in the case of an investment located in an area of the country where the maximum intensity of regional aid is 50%, or in an area at risk of exclusion;
2) 5 points – in the case of an investment located in an area of the country where the maximum intensity of regional aid is 30% or 40%;
3) 6 points – in the case of an investment located in the rest of the country.

In addition, large investors are required to incur costs of cooperation with higher education and science providers amounting to at least 15% of the value of the grant awarded during the investment or maintenance period.

Grants for eligible costs of new investment (investment grant)

Type of investment	Minimum investment (for large enterprises, mlnPLN) **	Minimum employment*/**	Other requirements	Maximum support (as % of eligible costs)[31]
R&D Centre	1	10****		up to 15%***
Innovative	7	20	Confirmation of innovativeness by the Ministry of Economic Development and Technology	For micro and small companies: up to 15%*** For medium sized and "developing" companies: up to 10%*** For large companies: up to 5%***
Strategic	160	50		

* in case of reinvestment (in existing plant) the minimum number of new jobs to be created is reduced by 90% and rounded up to the nearest integer
** minimum value of investment costs to be incurred and the minimum number of new jobs to be created under each type of investment may be reduced and rounded up to the nearest whole number due to: (A) size of investor [98% reduction for micro companies, 95% reduction for small companies, 80% reduction for medium companies and 70% reduction for so called "developing" companies] OR (B) [50%] in case of locating the investment in an area at risk of exclusion.
*** 10 p.p. bonus available in case of locating the investment in an area of the country where the maximum intensity of regional aid is 50% or in an area at risk of exclusion
**** with higher education degree only
[31] possibility of increasing support due to employee training"

The maximum amount of investment grant is calculated taking into account the planned amount of investment costs, the maximum intensity of support and the number of points obtained in the qualitative assessment of the investment, according to the following formula:

Amount of support (PLN) = a × b × c ÷ 10,
- a- amount of eligible costs(PLN),
- b- maximum intensity of support (%),
- c- the final result of the qualitative assessment of the investment.

Qualitative criteria for these kind of investments are as follow:
i. Investment in the strategic sector
ii. Exploiting the potential of human resources
iii. Robotization and automation of processes
iv. Research and development activity
v. Investment in renewable energy sources
vi. SME status
vii. Creation of specialised jobs
viii. Running business activities with low negative environmental impact
ix. Territorially balanced development
x. Supporting the acquisition of education and professional qualifications and cooperation with industry education
xi. Taking activities in the field of caring for employee

The investor can receive maximum 10 out of 11 available points in the quality assessment of the investment.

An entrepreneur may receive support if obtains at least:
1) 4 points – in the case of an investment located in an area of the country where the maximum intensity of regional aid is 50%, or in an area at risk of exclusion;
2) 5 points – in the case of an investment located in an area of the country where the maximum intensity of regional aid is 30% or 40%;
3) 6 points – in the case of an investment located in the rest of the country.

In addition, large investors are required to incur costs of cooperation with higher education and science providers amounting to at least 15% of the value of the grant awarded during the investment and maintenance period.

The maximum amount of support for a given investment is calculated, taking into account the planned amount of investment costs, the maximum intensity of support and the number of points obtained in the qualitative assessment of the investment, according to the following formula:

Amount of support (PLN) = a × b × c ÷ 10,
- a- amount of eligible costs(PLN),
- b- maximum intensity of support (%),
- c- the final result of the qualitative assessment of the investment.

Qualitative criteria for investment are as follow:
i. structural development
ii. activities with low negative impact on the environment
iii. Creation of specialized workplaces
iv. Territorially balanced development
v. Investment in renewable energy
vi. SME status
vii. Research and development activities
viii. Harnessing the potential of human resources
ix. Robotization and automation of processes
x. Supporting the acquisition of education and professional qualifications and cooperation with industry education
xi. Care of the employee

The investor can receive a maximum of 10 points in the quality assessment of the investment.

When applying for support for investment costs, maximum 10 out of 11 quality criteria for investment evaluation can be awarded.

An entrepreneur may receive support if obtains at least:
1) 4 points – in the case of an investment located in an area of the country where the maximum intensity of regional aid is 50%, or in an area at risk of exclusion;
2) 5 points – in the case of an investment located in an area of the country where the maximum intensity of regional aid is 30% or 40%;
3) 6 points – in the case of an investment located in the rest of the country.

In addition, large investors are required to incur costs of cooperation with higher education and science providers amounting to at least 15% of the value of the grant awarded during the investment or maintenance period.

Government grant may be combined (within state aid limits) with other regional aid instruments granted in the form of: direct subsidies from the state budget or programs co-financed by EU funds, income tax exemptions within Polish Investment Zone (PIZ) only if:

1. total value of support under the Government grant does not exceed PLN 3 mln,
2. (in case of strategic investment) the investment costs amount to at least PLN 300 mln,
3. (in case of Innovative investment) the investment costs amount to at least PLN 100 mln,
4. (in the Business Services Centre) the entrepreneur undertakes to create at least 500 new jobs,
5. in the Research and Development Centre (without any additional "requirements")

Grant application procedure in steps*:

step **1.** Submission of relevant documentation to PAIH
(including incentive effect analysis – only in case large and developing companies)

step **2.** Verification and valuation of submitted documents by PAIH

step **3.** Recommendation for support of the project issued by dedicated Interministerial Committee for Investments of Major Importance to the Polish Economy

step **4.** Decision on the award of the grant and its amount issued by Minister of Economic Development and Technology

step **5.** Conclusion of the agreement between the investor and the Minister (if the offer is accepted)

Government grant may be combined (within state aid limits) with other regional aid instruments granted in the form of: direct subsidies from the state budget or programs co-financed by EU funds, income tax exemptions within PIZ or any other ad hoc aid, only if:

1. total value of support under the Government grant does not exceed PLN 3 mln,
2. in the case of the Strategic investment, if the investment costs amount to at least PLN 300 mln,
3. in the case of the Innovative investment, if the investment costs amount to at least PLN 100 mln,
4. in the case of the Business Services Centre investment, if the entrepreneur undertakes to create at least 500 new jobs,
5. in the case of the Research and Development Centre investment without any additional requirements.

*The project is eligible to start the day after the application is submitted

9.6 IP BOX

IP Box complements the existing tax preference system for innovative activities and introduces a preferential 5% income tax rate for income from certain IP rights. The Polish intellectual property rights catalogue is one of the largest in the world and the 5% tax rate is one of the lowest of all developed countries. From 2022, it may apply simultaneously with R&D tax relief described below (which means that the income being subject to taxation can be additionally significantly reduced). Among the most popular IP rights being subject to IP Box so far are patents and copyrights to computer programs. However, the catalogue of IP rights for IP Box also covers, e.g. utility models or industrial designs.

Form of support	Tax relief
Who can apply	All CIT taxpayers
Relevant institution	Tax office relevant for the taxpayer
Type of eligible projects	Applicable to the result of works classified as R&D works
What activities can potentially be covered by the relief?	Among the most popular IP rights being subject to IP Box so far are patents and copyrights to computer programs. However, the catalogue of IP rights for IP Box also covers, e.g. utility models or industrial designs.
Eligible income	• royalties under the license agreement that concerns eligible IP rights • income from the sale of eligible IP rights • income from IP rights included in sales price of goods or services • compensation for infringement of IP rights
Eligible IPs	The Polish intellectual property rights catalogue is one of the largest in the world and covers: • patents • utility models • industrial designs • topographies of integrated circuits • extension of patent protection for medical product and plant protection products • medicinal and veterinary products • rights to plant varieties • copyrights to computer programs
Project value / support value range	No limits on the value of the project
Support intensity	5% income tax rate applicable to eligible income from eligible IP's – one of the lowest of all developed countries for this type of tax relief
Procedure	Settlement within the annual CIT return (no monthly settlement)

Key additional information	• permanent tax incentive • applicable to the tax income and costs only • additional accounting records are required • income and costs included in the CIT calculation of PIZ can be subject to this incentive (allows for extension of the application of tax exemption within the Special Economic Zone – lower consumption of the state aid limit) • this incentive can be applicable before acquisition of the full IP rights (i.e. also at the moment of expectancy right of obtaining of the IP rights; e.g. the moment of submitting relevant applications to the office); if the IP rights later are not granted the taxpayer is obliged to tax alignment to the standard rate • IP Box tax loss can be settled within the next 5 years but only within the income from the same IP • additional accounting records are required / additional project documentation is recommended • starting from 2022, this incentive can be combined with the R&D tax relief (i.e. R&D tax relief can be deducted from the tax base being subject to IP Box) • applicable starting from 2019

IP BOX Relief in numbers - possible tax savings for a standard CIT taxpayer[32]

TAX SAVINGS (TAX @5% RATE VS STANDARD 19% RATE)	THE VALUE OF DEDUCTIBLE ELIGIBLE COSTS IN ACCORDANCE WITH THE REGULATIONS IN FORCE FROM 2022 ONWARDS IN TOTAL (200% OF SALARY COSTS). NEXUS**** INDICATOR	THE VALUE OF DEDUCTIBLE QUALIFIED EXPENSES UNDER THE REGULATIONS IN EFFECT FROM 2022 FOR THIS FISCAL YEAR**** QUALIFIED IP INCOME FOR THE TAX YEAR (NEXUS X INCOME FROM QUALIFIED IP)
PLN 10 mln (c.a. EUR 2.1 mln)	PLN 4.7 mln (c.a. EUR 1 mln)	PLN 5.2 mln (c.a. EUR 1.1 mln)
TAX SAVINGS (TAX @5% RATE VS STANDARD 19% RATE)		0.94762419
ELIGIBLE COSTS BILLABLE IN THE NEXT 6 TAX YEARS COST**		PLN 5 mln (c.a. EUR 1.2 mln)
TAX SAVINGS INCOME***		PLN 302 k (EUR 64 k)
TAX SAVINGS (tax @5% rate vs standard 19% rate)		**PLN 700 k (c.a. EUR 148 k)**

CAPTIONS

* revenue from qualified intellectual property rights earned during the tax year

** the deductible cost of qualified intellectual property rights incurred during the tax year

*** income from qualified intellectual property rights- e.g. licenses, sales

**** if it exceeds 1, the value of 1 is taken

***** from qualified IP

9.7 R&D TAX RELIEF

The relief can reduce taxable income by certain categories of R&D expenses ("qualified costs") incurred by a taxpayer undertaking R&D activities. Up to 100% of R&D expenses (200% of the costs of employees and co-workers) may be deducted directly from the tax base (up to 200% also of other costs for entities holding the R&D center status).

[32] All PLN numbers converted with the use of PLN/EUR rate at 4.7

Form of support	Tax relief
Who can apply	All CIT taxpayers
Relevant institution	Tax office relevant for the taxpayer
Type of eligible projects	Applicable to the works classified as R&D works
What activities can potentially be covered by the relief?	The R&D activities that can be potentially covered by the R&D relief, may include for example: (i) modification of product formulation (ii) development of new product recipes and production process specifications (iii) improvement of the existing production line, which will reduce manufacturing costs, improve labor ergonomics.
How does the relief work?	Additional deduction from tax base of **up to 200% of the R&D works costs.**
Eligible costs	• employment costs (employment contracts and civil law contracts, except from B2B contracts) • costs of materials and raw materials • specialistic equipment not being a fixed asset • equipment rental and usage • expert opinions, reviews, consulting services and purchase of R&D works results from science institutions • patents, copyright, and industrial designs license fees • fixed and intangible asset depreciation write-offs used in R&D
Project value / support value range	No limits on the value of the project
Support intensity	• standard taxpayers (starting from 2022): **200% of additional deduction from tax base in case of employment costs,** and **100% additional deduction** from tax base in case of other costs • taxpayers with R&D center status (starting from 2022): 200% additional deduction from tax base in case of all costs, except from patents, copyright, and industrial designs license fees incurred by big entrepreneurs with the 100% additional limited deduction
Procedure	Deduction within the annual CIT return (no monthly deductions).

Key additional information	• permanent tax incentive • applicable to the tax costs only • reimbursed costs (e.g. within grants) cannot be subject to this incentive • additional accounting records are required • costs included in the CIT calculation of PIZ cannot be subject to this incentive • unsettled tax relief (e.g. due to the generated loss or income insufficient for full deduction) can be deducted from income within the next 6 years (available at the end of the tax year) • (i) new taxpayers can get a cash reimbursement of unsettled tax relief (e.g. due to the generated loss or income insufficient for full deduction) from the tax office in their first tax year; (ii) this cash reimbursement is also available in the second tax year, but only for micro, small, medium-sized entrepreneurs; both options are available at the end of the tax year • unsettled tax relief can be deducted within advances of PIT payments settled on remuneration of employees involved in the R&D works in at least 50% (available during the tax year, but no earlier than 2023) • starting from 2022, this incentive can be combined with IP Box (i.e. R&D tax relief can be deducted from the tax base being subject to IP Box) • applicable starting from 2016

R&D Relief in numbers - possible tax savings for a standard CIT taxpayer[33]

TAX SAVINGS	THE VALUE OF DEDUCTIBLE ELIGIBLE EXPENSES FOR THIS TAX YEAR (UP TO 10% OF INCOME) ELIGIBLE COSTS FOR R&D RELIEF (SALARY COST)	THE VALUE OF DEDUCTIBLE ELIGIBLE COSTS IN ACCORDANCE WITH THE REGULATIONS IN FORCE FROM 2022 ONWARDS IN TOTAL (200% OF SALARY COSTS)
	PLN 10 mln (c.a. EUR 2.1 mln)	PLN 5 mln (c.a. EUR 1.2 mln)	PLN 5 mln (c.a. EUR 1.2 mln)
TAX SAVINGS		PLN 3.4 mln (c.a. EUR 721 k)
TAX SAVINGS INCOME***		PLN 6.8 mln (c.a. EUR 1.4 mln)
Eligible costs billable in the next 6 tax years		PLN 5 mln (c.a. EUR 1.2 mln)
TAX SAVINGS		**PLN 950 k (c.a. EUR 202 k)**
Eligible costs billable in the next 6 tax years		PLN 1 mln (EUR 212 k)

CAPTIONS

* the taxpayer's general business revenue earned in the tax year

** deductible general business expenses incurred during the tax year

*** the taxpayer's income earned from general activities

**** i.e., up to the amount of general business income earned in the tax year

Under this model, the taxpayer does not have the status of a research and development center.

[33] All PLN numbers converted with the use of PLN/EUR rate at 4.7

9.8 PROTOTYPE TAX RELIEF

Prototype tax relief is a new relief introduced just in 2022, that allows for additional deduction of costs of trial production of a new product and its introduction to the market. It complements the R&D tax relief and IP Box. The relief provides the possibility to deduct from the tax base an additional 30% of costs incurred for trial production of a new product and its introduction to market (no more than 10% of total income).

Form of support	Tax relief
Who can apply	All CIT taxpayers
Relevant institution	Tax office relevant for the taxpayer
Type of eligible projects	Applicable to the result of works classified as R&D works
Eligible costs	• trial production: (i) costs of purchase or manufacturing of a new fixed assets needed for starting trial production, (ii) costs of fixed assets improvements necessary for their adjustment for starting trial production, (iii) materials and raw materials costs; • introduction of a new product to the market: (i) costs of research, expertise, preparation of documentation needed to obtain certificated, permits etc., (ii) product life cycle testing, (iii) environmental technology verification (ETV)
Project value / support value range	No limits on the value of the project
Support intensity	30% of additional deduction from tax base of eligible costs, but no more than 10% of overall income
Procedure	Deduction within the annual CIT return (no monthly deductions)
Key additional information	• permanent tax incentive • do not cover services • relates to the products that are no longer subject to R&D works • applicable to the tax costs only • reimbursed costs (e.g. within grants) cannot be subject to this incentive • costs included in the CIT calculation of PIZ cannot be subject to this incentive • additional accounting records are required / additional project documentation is recommended • unsettled tax relief (e.g. due to the generated loss or income insufficient for full deduction) can be deducted from income within the next 6 years (available at the end of the tax year) • applicable to the costs incurred starting from 2022

Prototype relief in numbers - possible tax savings for a standard CIT taxpayer[34]

TAX SAVINGS	THE VALUE OF DEDUCTIBLE QUALIFIED EXPENSES UNDER THE REGULATIONS IN EFFECT FROM 2022 FOR THIS FISCAL YEAR**** ELIGIBLE COSTS FOR PROTOTYPE RELIEF	THE VALUE OF DEDUCTIBLE COSTS ELIGIBLE FOR TOTAL PROTOTYPE RELIEF (30% OF COSTS)
PLN 10 mln (c.a EUR 2.1 mln)	PLN 5 mln (EUR 1.2 mln)	PLN 5 mln (EUR 1.2 mln)
TAX SAVINGS		PLN 2.35 mln (c.a EUR 500 k)
TAX SAVINGS		PLN 705 k (c.a. EUR 105 k)
Eligible costs billable in the next 6 tax years		PLN 500 k (c.a. EUR 106 k)
TAX SAVINGS		**PLN 95 k (c.a. EUR 20 k)**
Eligible costs billable in the next 6 tax years		PLN 205 k (EUR 43 k)

CAPTIONS

* the taxpayer's general business revenue earned in the tax year
** deductible general business expenses incurred during the tax year
*** the taxpayer's income earned from general activities

9.9 ROBOTIZATION TAX RELIEF

Robotization tax relief allows for additional deduction of eligible costs incurred for the purchase (lease) of new industrial robots. The robotization tax relief allows for additional deduction of 50% of eligible robotization costs (the principles of settlement of robotization tax relief are similar to R&D tax relief). The relief is limited in time and will be valid until the end of 2026.

Form of support	Tax relief
Who can apply	All CIT taxpayers
Relevant institution	Tax office relevant for the taxpayer
Type of eligible projects	Robotization
Eligible costs	The costs of purchase or leasing of new industrial robots used in the production process, including: • software to this robot • machines and additional devices functionally attached to this robot (e.g. tracks, rotators, drivers, motion detectors or end-effectors) • machines, devices and other equipment functionally attached to this robot (for the purpose of ergonomics and work safety for employees; e.g. enclosure, guards, area scanners) • machines, devices or systems for remote management, diagnosis, monitoring or servicing of this robot (e.g. sensors and cameras) • devices for human-machine interaction • cost of training for employees operating the robot
Project value / support value range	No limits on the value of the project
Support intensity	Additional deduction from tax base up to 50% of the eligible costs
Procedure	Deduction within the annual CIT return (no monthly deductions)
Key additional information	• temporary tax relief applicable only to the costs recognized as tax costs between 2022-2026 • this incentive is applicable only to robots used in the production process (the CIT Act provides a detailed definition of an industrial robot) • sale of the robot before the end of depreciation or end of the basic leasing period results in the obligation to return the amount of the used tax relief • additional accounting records are required • reimbursed costs (e.g. within grants) cannot be subject to this incentive • costs included in the CIT calculation of PIZ cannot be subject to this incentive • unsettled tax relief (e.g. due to the generated loss or income insufficient for full deduction) can be deducted from income within the next 6 years (available at the end of the tax year)

Robotization tax relief in numbers - possible tax savings for a standard CIT taxpayer[35]

TAX SAVINGS	ELIGIBLE COSTS FOR ROBOTIZATION RELIEF	THE VALUE OF DEDUCTIBLE COSTS ELIGIBLE FOR THE TOTAL ROBOTIZATION ALLOWANCE (50% OF COSTS)
PLN 10 mln (c.a. EUR 2.1 mln)	PLN 5 mln (EUR 1.2 mln)	PLN 5 mln (EUR 1.2 mln)
Eligible costs for robotization relief		PLN 4.5 mln (c.a. EUR 957 k)
		PLN 2.25 mln (c.a. EUR 478 k)
Eligible costs billable in the next 6 tax years		PLN 2.25 mln (c.a. EUR 478 k)
TAX SAVINGS		**PLN 427 k (EUR 90 k)**
Eligible costs billable in the next 6 tax years		PLN 0.00

CAPTIONS

* the taxpayer's general business revenue earned in the tax year
** general business deductible expenses incurred during the tax year
*** taxpayer's income earned from general activities
**** i.e., up to the amount of general business income earned in the tax year

[34] All PLN numbers converted with the use of PLN/EUR rate at 4.7

[35] All PLN numbers converted with the use of PLN/EUR rate at 4.7

9.10 LUMP SUM CIT

If certain conditions are met, taxpayers may also benefit from the new regime introduced in 2021 which allows for tax-free reinvestment of profits (so-called lump sum CIT or "Estonian CIT"). This preference can be applied for four years (extension is possible) and allows also to minimize the tax burden at the distribution of profits (10% CIT for small CIT tax payers or 20% for standard CIT tax payers at the distribution, in practice, the combined effective tax rate for the investor being a Polish tax resident can be lowered from approx. 34% to 25%).

This relief is dedicated to companies and partnerships held by investors being natural person, but not necessarily Polish tax residents.

10. CONTROLLED FOREIGN COMPANIES (CFC)

CFC's income is subject to a tax in Poland at 19%. A subsidiary can qualify as a CFC if it – broadly speaking:

- is seated in a tax haven, or
- in a country which did not sign an agreement allowing for exchange of tax information with Poland or the EU, or
- if, i.a. 33% of its income is derived from certain passive sources of revenues and tax effectively paid is below the qualified threshold.

As of 1 January 2022, the scope of the CFC rules was broadened and now includes, i.a. also controlled companies whose revenues are lower than 30% of selected assets (i.a. shares, real estate, intangible assets) or are below the given threshold – save that other conditions are met.

The CFC regime is not applicable to the subsidiary that conducts genuine business activity in an EU/EEA country.

11. RECENT DEVELOPMENTS (2022&2023 CHANGES)

A number of measures were introduced in 2022 and 2023.

Key changes introduced cover:

11.1 TAX ON REVENUES

A new tax introduced in 2022, but its collection for 2022 and 2023 was suspended and its new shape is currently under discussion. Under currently discussed conditions, it would be applicable to tax payers (companies being CIT taxpayers and Tax Capital Groups) incurring a tax loss, or whose tax income/revenue ratio is below 2%. The tax payer would be allowed to determine the taxable base under two alternative rules: (i) as 4% of operational income or (ii) as 2% of operational income increased by certain costs (i.a. intragroup financing costs or intragroup intangible services). The new tax could not be off set towards future CIT due.

11.2 INTRODUCTION OF A "PAY AND REFUND" REGIME FOR WITHHOLDING TAX PURPOSES

Since 2022, for "passive" payments (dividends, interest, royalties) over PLN 2 mln to a given related recipient in a tax year of a Polish tax remitter, reduction or exemption of withholding tax is possible in accordance with the pay & refund mechanism. In this mechanism, the tax remitter has to collect and pay WHT at standard 19% (dividends) or 20% (interest, royalties) rates on such payment, and subsequently the foreign taxpayer (as a rule) may submit a refund request.

To avoid the mechanism, Polish tax remitters or foreign taxpayers may either (i) obtain a special security opinion on WHT securing the right to apply the WHT exemption, based on the implemented rules of EU Directives for payments such as dividends, interest or royalties, as well as preferences resulting from a DTT, or (ii) Board members of the Polish remitter may sign a statement that all the conditions for WHT relief are fulfilled.

11.3 TAXATION OF SO-CALLED SHIFTED PROFITS

Tax on so-called shifted profits is a new category of tax burden to which a Polish company making settlements with group companies not having its registered office or management in Poland may be subject to. There are several conditions which must be fulfilled both by a Polish company and foreign recipient to apply this taxation. On the amount of "shifted profits" (consisting of e.g. intangible services, royalties, debt financing costs) a Polish company is obliged to pay 19% CIT, unless it demonstrates that the related party for whose benefit the costs were incurred, which is a tax resident of an EU or EEA country, conducts substantial real economic activity in that country.

11.4 POLISH HOLDING REGIME (PSH)

From 2022, group entities, upon meeting the relevant conditions, can take advantage of the Polish Holding Regime (PSH). A holding company is a limited liability company or joint-stock company or a simple joint-stock company that has held, for at least two years, a minimum of 10% of the shares in the capital of another limited liability company or joint-stock company or a foreign subsidiary with legal personality (subject to further conditions). Dividends paid to the holding company are subject to full exemption in the part corresponding to 95% of the dividend amount[36]. In addition, income derived from the disposal of shares in a subsidiary by the holding company is fully exempt once the transaction is done with an unrelated party (this exemption does not apply to a sale of shares in a so-called real estate company).

11.5 POLISH TAX CONSOLIDATION GROUP

Polish Tax Consolidation Group (PTCG) allows for consolidation of CIT results of a group of at least two companies that meets several conditions (i.a. direct share in capital ratio, legal form etc). From 2022, a number of changes with regard to the Polish Tax Consolidation Group entered into force, including in particular: a reduction in the average share capital of each company to PLN 250 000, the possibility for subsidiaries to hold shares in other PTCG subsidiaries, the abolition of the condition of profitability of a PTCG, and the requirement to conclude an agreement on the formation of a PTCG in notarial deed form.

11.6 DEDUCTIBILITY OF CERTAIN INTRA-GROUP FINANCING COSTS

Under the new regulation, the costs of financing received from related entities for purposes of capital transaction (excluding acquisition of shares / similar rights in unrelated entities) will be non-tax deductible as tax expenses. Moreover, it was clarified that the limit on debt financing costs resulting from the implementation of ATAD 2 should amount to PLN 3 mln **or** 30% of tax EBITDA.

11.7 DIGITAL REPORTING FOR CIT PURPOSES

Among the new changes comes the obligation to keep accounting books using computer programs and to send information in structured form (SAF for CIT). The entry into force of these provisions has been pushed back to 2025 or 2026 (for tax payers with revenues lower than EUR 50 mln).

[36] In practice, this relief can be beneficial in case of a Polish company holding a non-EU subsidiary. Dividends received from the EU subsidiary are CIT exempt under certain conditions.

11.8 FAMILY FOUNDATION

As of 2023, a new legal entity has been introduced into Polish law – a family foundation. Family foundation can be used as a vehicle for succesion of the estate / business of individuals, protection of family interests or even as an investment vehicle. Family foundation is a legal person and it can be established only by natural persons. Family foundation is a CIT taxpayer and its income is generally CIT exempt (if it stems from the business activities which are specifically listed in the law).

Otherwise rate is 25%. Distribution of profits to beneficiaries is subject to preferential 15% CIT rate paid by the foundation. Beneficiaries on the other hand can be either exempt from PIT taxation on distributions received from family foundation (this refers founder and its closest relatives) or subject to 10/15% of PIT, depending on the degree of kinship.

11.9 NEW GLOBAL MINIMUM TAX

New global minimum tax (referred to also as GloBE) is a new international initiative aimed at limitation of tax competition between countries. GloBE introduces minimal effective CIT rate of 15%. GloBE will apply to the groups which income is taxed below the threshold CIT rate in any particular jurisdiction. In this case, the group will be obliged to pay top up tax to the country of head office location unless the so called qualifying domestic minimum top-up tax is introduced.

Only large capital groups will be subject to GloBE (EUR 750m of consolidated revenues). Poland as a member EU is obliged to introduce new regulations on GloBE (i.e. EU Directive on Minimum Tax). No official date of enaction has been given so far, but the most probable date is 2024.

VAT – KEY CHARACTERISTICS[37]

1. SCOPE OF VAT TAXATION

VAT is imposed on:

- The supply of goods and provision of services in Poland;
- Receipt of reverse-charge services by a taxable person in Poland;
- Export and import of goods;
- Intra-Community acquisition of goods for consideration in Poland;
- Intra-Community supply of goods.

Standard rate (%)	Reduced rate (%)	Exports and intra-Community supplies of goods (0%)	Registration threshold (does not apply to entities without a registered seat in Poland[38])
23	5 / 8	0	PLN 200 000 net per annum

2. REVERSE-CHARGE MECHANISM

The reverse-charge mechanism generally applies to:

Intra-Community acquisitions of goods;

Purchase of services by the Polish taxpayers from foreign entities not having a seat or fixed establishment in Poland (so-called 'import of services');

Local supplies of goods by foreign entities not having a seat or fixed establishment in Poland to the Polish taxpayers.

3. REPORTING

All taxpayers (except for those exempt from VAT) are required to periodically submit their VAT returns along with detailed VAT records in a SAF-T file (the 'JPK_V7' file in the XML format).

Apart from data enabling correct settlement of VAT liability, taxpayers are required to include additional transaction-related information in the SAF-T file (if applicable).

4. OBLIGATORY SPLIT PAYMENT MECHANISM

From 1 November 2019, payment using the split payment mechanism is mandatory (also for foreign entities effecting transactions subject to Polish VAT) when:

- the invoice gross amount is over PLN 15 000 (or equivalent in foreign currencies), and,
- the invoice documents the purchase of goods or services specified in Annex No. 15 to the Act on VAT (e.g. construction works, purchase of coal, coke, various metals and metal products, waste, electronics, parts and accessories for vehicles etc.).

[37] VAT taxation is regulated under the Act of 11 March 2004 on Value Added Tax.
[38] Please note that certain types of activities are excluded from this exemption and taxpayers intending to perform them are required to obtain VAT registration at the outset of their business activities.

5. THE LIST OF THE POLISH VAT TAXPAYERS ('WHITE LIST')

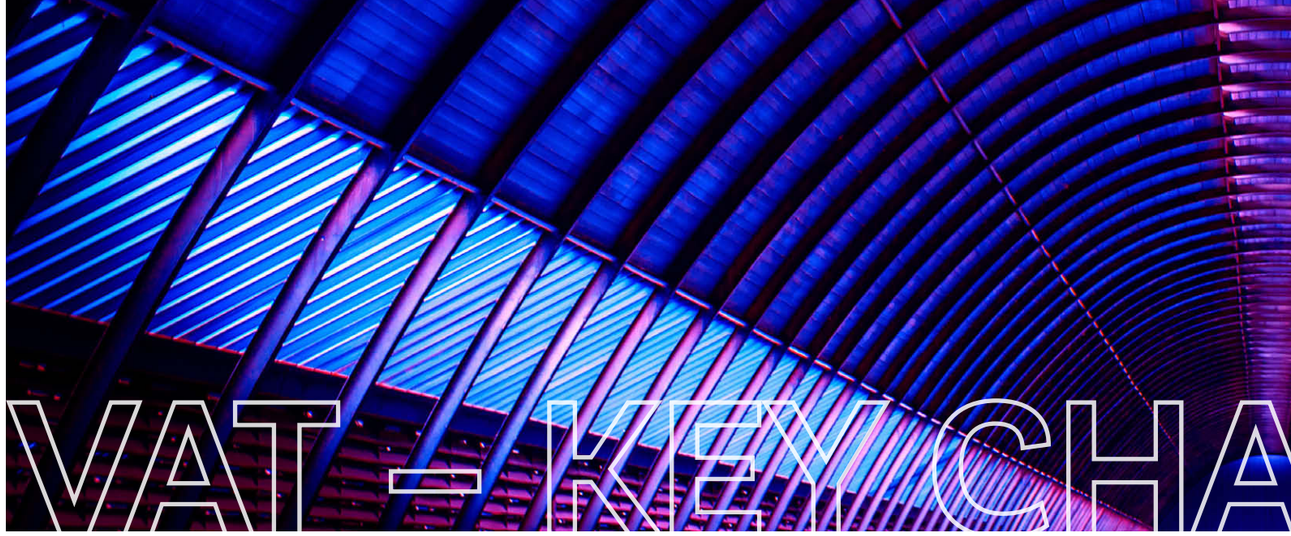
In case of purchase of goods or services of a value exceeding PLN 15 000 gross, confirmed by an invoice, supplied by an active Polish VAT taxpayer, the payment for these goods or services needs to be effected via bank transfer to the supplier's bank account included as at the date of order of the transfer on the list of the Polish VAT taxpayers (the so-called 'White list'). Otherwise, such a payment cannot be recognized as a tax-deductible cost and the purchaser bears the joint and several liability for the supplier's VAT obligations resulting from such a transaction (certain exceptions apply).

The list is available at: https://www.podatki.gov.pl/wykaz-podatnikow-vat-wyszukiwarka and allows the taxpayer to search by his/her bank account number ('Numer konta'), Polish tax identification number ('NIP'), Polish statistical number ('REGON') and name ('Nazwa podmiotu' – at least 5 characters are required).

6. VAT REFUNDS

Taxable persons may request a direct refund of the surplus of input VAT over output VAT within the following time limits:

TIME LIMITS	CONDITIONS
60 days from the date of submission of the VAT return (basic deadline)	
180 days from the date of submission of the VAT return (extended period)	applies if the taxpayer for a given tax period does not show any sales, but only purchases (i.e. there will be no output tax, only input tax),
40 days from the date of submission of the VAT return (shortened period)	applies provided that certain conditions are met, i.a. that the taxpayer has been a registered VAT payer for at least a year and issued all his/her invoices in a given month in the new electronic format using KSeF (certain exceptions are allowed; see below for more details on KSeF),
25 days from the date of submission of the VAT return (shortened period)	applies under several conditions- including full payment of invoices declared for input VAT recovery through a Polish bank account and submitting confirmation of payment to the tax office; this quick refund is not available to taxpayers registered for VAT purposes for a period shorter than 1 year,
25 days from the date of submission of the VAT return (shortened period)	applies if a taxpayer requests a refund to be made to his/her VAT account under the tax authorities' supervision (maintained for the split payment mechanism purposes)- i.e. not to the taxpayer's current bank account,
15 days from the deadline to submit a VAT return / from the date of submission of a corrected VAT return	applies provided that 10 conditions are met, including i.a. that: • at least 80% of the total gross sales in a certain period was reported in the cash registers operating online / so-called virtual cash registers, • at least 65% of the value of payments pertaining to gross sales reported in the above-mentioned cash registers (80% starting from 1 January 2024) was received via bank transfers or using payment instruments.



7. E-COMMERCE RULES

New complex EU rules on taxation of e-commerce were introduced as of 1 July 2021, significantly modifying the settlement of distance sales within the EU (i.e. cross-border supplies of goods to private individuals) and sales of goods imported into the EU. As a result, these transactions will be very often subject to taxation in the country of the goods' destination. In order to facilitate reporting of such transactions in various EU countries, the One Stop Shop (OSS) and the Import One Stop Shop (IOSS) schemes have been introduced.

Also, as a part of the e-commerce package, the exemption of import VAT for shipments of low value consignments (not exceeding EUR 22) has been abolished.

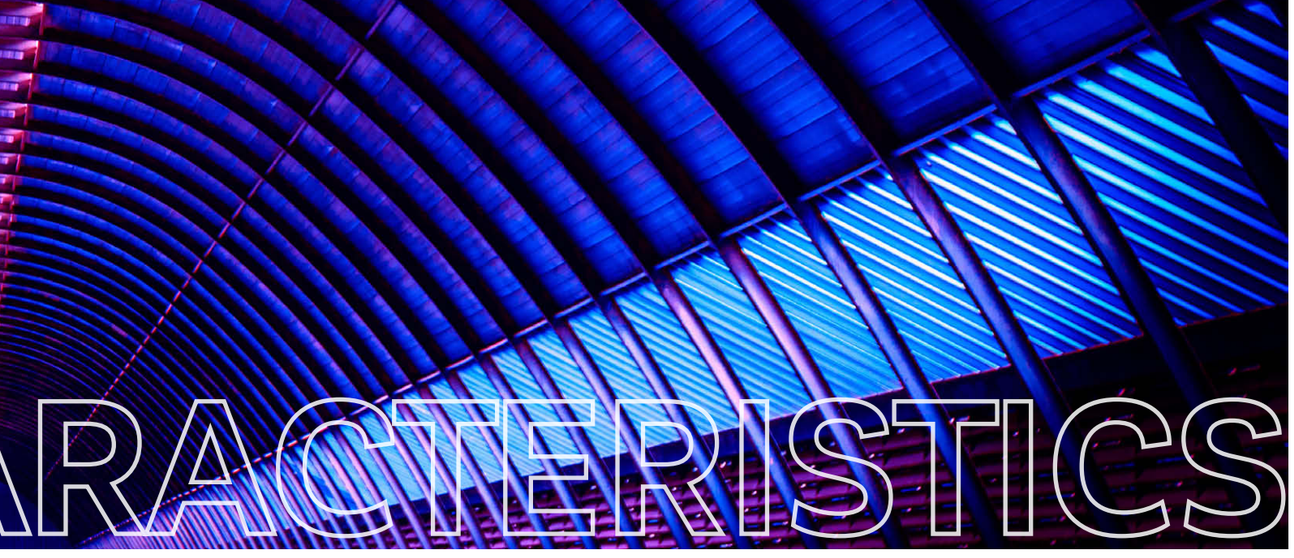
8. RECENT DEVELOPMENTS (2022 & 2023 CHANGES)

8.1 VAT GROUPING

- Starting from 1 January 2023, a group of closely related entities (established in Poland or foreign entities holding a Polish branch) are able to create a VAT group and settle their individual VAT obligations jointly as if they were one taxpayer;
- A VAT group may be created for a period not shorter than 3 years; signing an agreement and registration of the group at the tax office is required;
- All transactions made between the VAT group members are not be subject to VAT, which results in several simplifications to the intra-group transactions:
  - no need to issue invoices and determine GTU codes;
  - no obligation to apply the split payment mechanism;
  - risk limitation in case intra-group transactions are typically subject to reduced VAT rates or VAT exemption;
  - only one SAF-T (JPK) will be submitted on behalf of the entire VAT group.

8.2 OPTION TO TAX FINANCIAL SERVICES

- Active VAT taxpayers may opt for taxation of financial services provided for other VAT taxpayers (instead of applying the standard VAT exemption);
- The option may be exercised for a period not shorter than 2 years and, if chosen, it has to be applied to all eligible financial services rendered by the taxpayer (except for insurance transactions which are excluded from the option);
- Written notification to the tax office is required before applying the option.



8.3 ELECTRONIC INVOICING (KSeF)

- A new format of electronic invoices (in the XML format) exchanged through an online platform maintained by the Polish tax authorities (KSeF) has been introduced;
- Issuing the new e-invoices is voluntary (and their use requires a purchaser's consent), but use of KSeF will become mandatory as of 1 July 2024;
- Foreign entities will be obliged to issue invoices using KSeF if they have fixed establishment in Poland;
- If all eligible invoices have been issued in the new format, the taxpayer (using the system currently on a voluntary basis) may request a VAT refund in 40 days (certain other conditions also apply). Together with the implementation of the obligatory KSeF the standard refund period will be shortened to 40 days.

8.4 SLIM VAT PACKAGES

The Polish VAT law is being modified with the aim to improve and simplify it, as well as to get rid of various provisions of technical / administrative nature that impose a significant burden on taxpayers. So far, three packages of such improvements have been introduced and they cover – inter alia – the extension of the time limit for deducting input VAT on purchase in the current VAT return and for claiming the bad debt relief, increasing the amount allowing to treat goods as a non-taxable gift of small value, allowing for more cash neutral settlement of VAT in case of intra-Community acquisitions of goods and import of services, mitigation of VAT sanctions.

PERSONAL INCOME TAX (PIT) – KEY CHARACTERISTICS[39]

1. SCOPE OF PIT TAXATION

Following individuals can be subject to tax in Poland:

1. Polish tax residents, obliged to declare and tax in Poland their worldwide income i.e:
   - individuals who have their centre of personal or economic interests (a centre of vital interests) in Poland, and/or
   - stay in Poland for a period exceeding 183 days in a given tax/calendar year.
2. Polish tax non-residents only on the income derived in Poland

[39] PIT taxation is regulated under the Act of 26 July 1991 on Personal Income Tax.

2. STANDARD PIT RATES

Progressive taxation applicable to, i.e. employment and business income with two main thresholds:

- **for income up to PLN 120 000 (approx. EUR 26k[40]) - 12% less PLN 3 600,**
- **> PLN 120 000 – PLN 10 800 (approx. EUR 2.3k) + 32% on the surplus over PLN 120 000.**

In the case of income exceeding PLN 1 mln, taxpayers are additionally obliged to pay so-called solidarity duty tax of 4% exceeding PLN 1 mln. Solidarity duty tax applies to income from, i.e. employment, business or capital gains, but some types of income are excluded from its scope (e.g. dividends, rental income).

In the case of income from business activity, it is possible to choose a 19% flat rate or lump-sum tax (between 2% and 17%), as an alternative for the progressive taxation described above.

Lump sum tax in practice can be very attractive for individual business activities, especially in the area of IT services, where the tax rate is 12% or in some cases – even 8.5%.

Directors' fees: Taxed together with other income with progressive taxation. Non-residents are subject to 20% tax rate on directors' fees.

Capital gains: Generally taxed at a flat rate of 19%.

3. TAX DEFERRAL CONDITIONS FOR EMPLOYEES' STOCK BASED PLANS

It is possible to defer the taxation of income from incentive programs until the sale of shares taken up by employees or co-workers (persons receiving from the company income referred to in Article 13 of the PIT Act – e.g. contractors, Board members, managers). The above is associated with the qualification of received revenues as investment income taxed with 19% tax rate, after fulfilling certain conditions.

4. SOCIAL SECURITY AND HEALTH INSURANCE CONTRIBUTIONS DEDICATED FOR EMPLOYMENT CONTRACTS

Type of insurance	Employee's part (%)	Employer's part (%)
Pension*	9.76%	9.76%
Disability*	1.5%	6.5%
Sickness	2.45%	
Accident	-	1.67%**
Labour Fund	-	2.45%
Guaranteed Employee's Benefits Fund	-	0.10%
Health insurance contributions	9%***	

* Contributions basis is capped at PLN 208 050 per annum (limit is valid for 2022)

** Average rate

*** Basis for healthcare insurance contributions is the difference between the gross remuneration and the employees' contribution

[40] Average National Bank of Poland EUR/PLN rate as at 11.09.2023 at 4.6209.

Examples**

Monthly gross remuneration	Annual gross remuneration	Annual net remuneration	Annual employer's costs
EUR 1 500	**EUR 18 000**	EUR 13 127.32	EUR 21 367.75
EUR 2 500	**EUR 30 000**	EUR 21 307.61	EUR 35 613
EUR 4 000	**EUR 42 000**	EUR 30 815.59	EUR 56 496.85

**** Polish tax resident; no tax reliefs

Calculated with use of average National Bank of Poland EUR/PLN rate as at 11.09.2023 at 4.6209

5. INCOME FROM THE RENTAL OF REAL ESTATE

Rental income is subject to a standard progressive tax. However, as of 2022 private rental is subject to flat rate taxation only. For business income it is possible to apply for flat rate taxation. In such case tax is calculated on the total revenue (without deducting costs):

- Rental revenue ≤ PLN100 000 is taxed at a flat rate of 8.5%
- The excess over PLN100 000 is taxed at a flat rate of 12.5%.

6. INHERITANCE AND GIFT TAX

Tax rates are progressive and range from 3% to 20% depending on the recipient's relationship to the donor or the deceased.

Under specific conditions, the closest relatives of the donor or the deceased are exempt from inheritance and gift tax.

7. TAX FILING AND PAYMENT PROCEDURES

The tax year in Poland is the calendar year.
By 30 April following the close of the tax year, taxpayers must

- file tax returns
- pay any difference between total tax payable and advance payments.

REAL ESTATE TAX (RET) – KEY CHARACTERISTICS[41]

1. RET – SCOPE OF TAXATION

- RET is a property tax, it encumbers the possession of property, but in the Polish system it is not cadastral.
- Due to the lack of precise provisions, the correct subject and method of taxation is often established by the jurisprudence of administrative courts and the Constitutional Tribunal.
- The following are subject to RET:
  - lands;
  - buildings or their parts;
  - non-building structures or their parts used to conduct economic activity.

[41] RET taxation is regulated under the Act of 12 January 1991 on Taxes and Local Fees.

2. TAXPAYER

Taxpayers may be natural persons, legal persons, and organisational units, including unincorporated partnerships that are:

- owners of real properties or construction objects;
- autonomous possessors of immovable properties or assets;
- perpetual usufructuaries of land;
- possessors of immovable properties or parts thereof, or construction objects or parts thereof, which are owned by the State Treasury or local government units, if the possession arises from an agreement or if the possession is without a legal title.

3. TAX BASE AND TAX RATES

The tax base in RET depends on the type of the property and for each the subject of taxation is established in following way for:

- lands- surface area;
- buildings or parts thereof – usable floor area.
- non-building structures or parts thereof used to conduct economic activity – value.

The tax rates are determined in the resolutions of the commune councils- by each commune independently.

The upper limits of the rates result from statute and are adjusted each year for lands and buildings (amount depending on the inflation rate). The upper limit of the rate for non-building structures is fixed at 2%.

For 2024, the upper limits of the rates are:

- Land plots related to business operations- PLN 1.34 / m2
- Residential buildings- PLN 1.15 / m2
- Buildings related to business operations- PLN 33.10 / m2

Statutory tax exemptions are introduced in RET regulations, however these usually pertain to very specific kinds of lands, buildings or structures. The most interesting for new investments are exemptions for:

- barren lands – pieces of barren land that is not used for business activities may benefit from tax exemption,
- lands under port infrastructure,
- port structures,
- land and buildings entered in the register of monuments – provided they are conserved and maintained (parts of land and buildings used for business activities are excluded from exemption).

Under certain conditions, individual communes may introduce other exemptions than statutory ones, applicable to assets located within their administrative boundaries.

4. TAX REPORTING AND PAYMENT

A legal person is obliged to self-calculate the value of tax for the purposes of RET and submit a tax declaration **by 31 January each year** to the relevant commune, i.e. competent tax authority in the place where the taxable items are located, using a pre-defined standard form. If the tax obligation arises after that date – the declaration should be submitted within 14 days from the date of the taxable event.

Payment should be made in **monthly instalments** to the account of the relevant commune, in proportion to the tax obligation period.

The **instalment due date is the 15th day in each month, except for January, when the due date is 31 January.**

MANDATORY DISCLOSURE RULES (MDR)[42]

- Since 1 January 2019, Poland has had regulations on reporting on so-called reportable arrangements as a result of implementation of the DAC 6 EU Directive. Polish provisions implemented are significantly wider than the DAC6 Directive when it comes to the scope of reporting and include not only cross-border but also domestic arrangements.
- The scope of reporting includes arrangements regarding, i.e., income taxes, VAT (with respect to domestic arrangements) and other taxes (excluding customs duties). The arrangement may be subject to reporting if it meets at least one of the general or specific hallmarks, or with respect to cross-border arrangement when it meets the cross-border and other associated hallmarks. In the case of domestic arrangements, they are subject to reporting if the criteria for the entity using the arrangements or an entity related to it are met (e.g. its revenues, costs or assets exceed the equivalent in PLN of EUR 10 mln, or the arrangement concerns items or rights with a market value above EUR 2.5 mln).
- Some taxpayers may be required to adopt and implement a special MDR procedure.
- The obligation to report tax arrangements may also be imposed on internal tax advisors (in-house).
- Arrangements are subject to reporting within 30 days of being made available for implementation, and failure to comply with the obligation to report them or the absence of the MDR procedure (if required) is subject to significant financial penalties, both for the company and for those responsible for taxes (including MDR) – up to PLN 34.6 mln (approx. EUR 7.4 mln) for failure to comply with reporting obligations.
- Until recently, due to COVID-19 measures, the deadlines for reporting domestic arrangements were suspended. As of July 30, 2023 / August 30, 2023 (depending on the type of reporting), the deadlines for reporting domestic arrangements were put in back in force. As for reporting of cross-border arrangements – 30-day standard deadlines apply.

HORIZONTAL MONITORING PROGRAM

(CO-OPERATIVE COMPLIANCE)[43]

- The Horizontal Monitoring Program (HMP) is a new mechanism in Poland addressed to taxpayers whose revenues exceed EUR 50 mln. HMP is based on mutual trust and in-depth cooperation between the taxpayers and tax authorities, and results both in additional obligations and tangible benefits. One of the main assumptions of the program is to introduce balance and build trust between tax authorities and taxpayers through replacing the imperial attitude of tax authorities towards entrepreneurs with various forms of cooperation, including consensual dispute resolution methods.
- HMP (cooperative compliance) is created based on similar projects functioning in other tax administrations (including Austria, the Netherlands and Great Britain). According to its assumptions, it is a new, voluntary form of supervision over the correctness of tax compliance of strategic taxpayers, implemented in real time and in cooperation with a taxpayer, based on mutual trust, transparency and understanding.
- The Polish version of HMP grants significant and tangible benefits for participants, which may cover:
  - the possibility of concluding a tax agreement with the Head of the National Tax Administration (guaranteeing legal certainty with regard to issues covered by the agreement, i.e. in all taxes and transfer pricing issues);
  - exclusion of the obligation to report tax schemes (MDR);
  - extension or shortening of the deadlines for specific actions (including acceleration of granting tax refunds by the tax authorities);
  - reducing or excluding the obligation to pay late interest on tax arrears;
  - limiting the fee for concluding an agreement on setting transaction prices or issuing an advance tax decision;
  - no penal-fiscal liability in case of errors in tax accounting;
  - granting the taxpayer a privilege to be always treated as acting with due care as regards tax settlements.
- As at mid-2022, 21 companies qualified for the pilot phase of the programme, and two of them have already signed an agreement with the National Tax Administration.

[42] MDR reporting is regulated in Tax Ordinance Act of 29 August 1997.
[43] The co-operative compliance program is regulated in the Tax Ordinance Act of 29 August 1997.

INVESTMENT AGREEMENT[44]

An Investment Agreement is a new instrument introduced in 2022 aimed at increasing for the investor the level of certainty of tax aspects of its investment in Poland. Within a single application, the investor is able to comprehensively confirm tax effects of an investment.

The agreement is concluded with the Minister of Finance and can cover:

an advance pricing arrangement (APA);

an individual tax ruling with respect to anti-avoidance rules;

binding excise information;

binding rate information;

an individual tax ruling.

An application for an Investment Agreement can be submitted by anyone who plans or has started a new investment in Poland worth PLN 100 mln (approx. EUR 21 mln)[45]. The definition of new investment is broad and covers, i.a. investment in tangible or intangible assets related to the set-up of a new facility or extension of capacity of an existing facility, but also acquisition of assets of the facility (other than shares only) from a non-related seller.

An Investment Agreement is binding for a maximum period of 5 years (unless terminated earlier by the investor) and may be drawn up simultaneously in Polish and English.

The Investment Agreement is binding both for the investor and for the tax authorities competent for the investor's settlements.

The fees associated with entering into an Investment Agreement are as follows:

- **Initial Fee of PLN 50 k** (approx. EUR 10.5 k) **– for application for the conclusion of an agreement**
- **Principal Fee ranges between PLN 100 k – PLN 500 k** (approx. EUR 21 k- EUR 105 k) – subject to arrangement. The Principal Fee is charged **for the conclusion of an agreement.**

In case the Investment Agreement is subject to amendments, the Initial Fee and Principal Fees are halved.

[44] Investment Agreement is regulated in Tax Ordinance Act of 29 August 1997
[45] PLN 50 mln starting from 2025 – approx. EUR 10.5 mln.

LABOUR LAW

04.

LAWS | ACTS

1. Labour law in Poland is regulated by laws and executive acts. The Labour Code is the key law regulating the relationship between employee and employer. The following is a list of some key acts regarding Polish labour law:
   - Act of 26 June 1974, The Labour Code (i.e. Journal of Laws 2023, item 1465);
   - Act of 13 March 2003 on Particular Rules of Terminating Employment Relationships with Employees for Reasons Not Attributable to Employees (i.e. Journal of Laws 2018, item 1969, as amended);
   - Act of 10 October 2002 on the Minimum Wage (i.e. Journal of Laws 2020, item 2207);
   - Act of 25 June 1995 on Financial Allowances from Social Insurance in case of Illness and Maternity (i.e. Journal of Laws 2021, item 1133, as amended);
   - Act of 11 October 2013 on Particular Solutions Related to the Protection of Jobs (i.e. Journal of Laws 2019, item 669);
   - Act of 18 January 1951 on Public Holidays (i.e. Journal of Laws 2020, item 1920);
   - Act of 10 January 2018 on Restriction of Trade on Sundays and Holidays and on Certain Other Days (i.e. Journal of Laws 2021, item 936, as amended);
   - Act of 13 October 1998 on the Social Insurance System (i.e. Journal of Laws 2022, item 1009, as amended);
   - Act of 20 April 2004 on Promotion of Employment and on Labour Market Institutions and some other Acts (i.e. Journal of Laws 2022, item 690, as amended);
   - Act of 12 December 2013 on Foreigners (i.e. Journal of Laws 2021, item 2354, as amended);
   - Act of 12 March 2022 on Assistance to Citizens of Ukraine in connection with the Armed Conflict on the Territory of that Country (Journal of Laws No. 583, as amended);
   - Act of 23 May 1991 on Trade Unions (i.e. Journal of Laws 2022, item 854);
   - Act of 7 April 2006 on Informing and Consulting Employees (Journal of Laws No. 79, item 550, as amended);
   - Regulation of the Minister of Labour and Social Policy of 29 January 2013 on the entitlements to be paid to an employee working in a state or local government unit of the budgetary sphere on account of a business trip (i.e. Journal of Laws, item 167, as amended).
2. In addition, the below acts regulate relations of cooperating entities under civil law agreements:
   - Act of 24 April 1964, The Civil Code (i.e. Journal of Laws 2022, item 1360, as amended);
   - Act of 6 March 2018, The Entrepreneurs Act (i.e. Journal of Laws 2021, item 162, as amended).
3. In the Polish legal system there are many executive acts to the above laws which regulate in detail issues such as calculating vacation pay, occupational health and safety, work allowed for young employees and pregnant employees, as well as or principles regarding personnel documentation, etc.

TYPES OF EMPLOYMENT

1. EMPLOYMENT AGREEMENT

1.1 OVERVIEW

- According to the Polish Labour Code, through the establishment of an employment relationship:
  - an employee undertakes to **perform work of a specific type** for the employer,
  - **under the employer's direction** and **at a place and time designated by the employer,**
  - the employer undertakes to employ the **employee for remuneration.**
- The most characteristic aspect of the employment relationship is therefore the employee's subordination in the performance of the employee's duties. This means that the employer determines the scope of the employee's duties, and the employee is obliged to carry out the employer's instructions. The employer also determines the place of work and working hours. The employer is obliged to pay the employee a monthly salary for work that may not be lower than that specified in the relevant labour legislation.
- Remuneration for work should be determined so as to respond in particular to the type of work performed and the qualifications required for its performance, and with regard to the quantity and quality of work performed. Moreover, the employer has to ensure in this regard that the conditions of remuneration do not violate the principle of equal treatment of employees.
- In 2023, the minimum wage is **PLN 3,600 gross monthly. From 1 January 2024, the minimum wage will be PLN 4,242 gross and from 1 July 2024 - PLN 4,300 gross.**
- Types of employment agreements, the procedure and strict rules for their conclusion and termination are regulated by the Labour Code. The employee and the employer remain under the regime of the Labour Code with all the associated duties and rights, otherwise than with civil law agreements.
- The Labour Code also guarantees employees a catalog of privileges. Employees are entitled, i.a. to **annual leave, sick leave, employment protection against dismissal**, as well as **rights related to parenthood**, e.g. maternity leave, paternity leave, parental leave. Notice periods apply in situations of termination of employment agreements.
- The provisions of the employment agreement cannot be less favorable than those under the Labour Code, e.g. the employer cannot agree with the employee that they will be entitled to less vacation leave than under the Labour Code, nor can it introduce a shorter notice period. In such a case, the provisions of the employment agreement will be invalid.
- If an employment agreement is concluded with an employee who has a place of residence in Poland, the agreement must be drawn up in Polish or in a bilingual version. This rule also applies to foreign employees if they are residing in Poland. However, if the employment agreement is concluded with an employee who is a foreigner, the employment agreement or other labour law documents may also be drawn up in a foreign language at the request of the person performing the work, speaking that language, who is not a Polish citizen and who has been previously instructed about the right to draw up the agreement or other document in Polish.
- There are three types of employment agreements that can be signed with an employee:
  - probationary period,
  - definite period*,
  - indefinite period.

  **these are also recognized as a replacement agreement for the period of absence of another employee.*

1.2 EMPLOYMENT AGREEMENT FOR A PROBATIONARY PERIOD

- An employment agreement for a probationary period can be concluded in order to check the employee's qualifications and the possibility of his/her employment to perform a specific type of work.
- The duration of a probationary employment agreement is allowed to be from 1 to 3 months. However, this will depend on the intended duration of the employee's next employment agreement:
  - 1 month – in the case of the intention to conclude an employment agreement for a fixed term of less than 6 months;
  - 2 months – in case of the intention to conclude a fixed-term employment contract of at least 6 months and less than 12 months;
- The parties may extend the above-mentioned periods once in the employment agreement for a probationary period, but not more than 1 month, if it is justified by the type of work.
- The parties may agree in the employment agreement for the probationary period that the agreement is extended by the time of vacation, as well as by the time of other excused absence of the employee from work, if such absences occur.

The conclusion of another agreement for a probationary period with the same employee can be made only if the employee is going to be hired to perform another type of work.

1.3 EMPLOYMENT AGREEMENT FOR A DEFINITE PERIOD

- An employment agreement for a definite period expires after the period indicated in the agreement.
- However, there are restrictions on the conclusion of such agreements. Employment relationships for a definite period between the same parties, **cannot exceed 33 months** and the total number of such agreements **cannot exceed 3.**
- If the above indicated limits are exceeded, the agreement is reclassified by virtue of the law into an employment agreement for an indefinite period.
- The Labour Code provides exceptions to this rule. The above restrictions do not apply to agreements concluded for an indefinite period in order to:
  - perform casual or seasonal work;
  - replace an employee during a justified absence from work;
  - perform work for a term of office;
  - if the employer provides objective reasons on its part
  - if their conclusion in a particular case meets actual periodic requirements and is necessary in accordance with all the circumstances of the conclusion of the agreement.

1.4 EMPLOYMENT AGREEMENT FOR AN INDEFINITE PERIOD

- An employment agreement for an indefinite period has no end date. It is effective until one of the parties- the employee or the employer- terminates it by giving notice or by mutual agreement.

1.5 MANDATORY ELEMENTS OF AN EMPLOYMENT AGREEMENT

- The employment agreement should be concluded in writing and signed no later than on the day the employee starts work. Electronic signatures using a qualified electronic signature are also acceptable and this form is equivalent to a written one. If the agreement is not signed, the employee should receive written confirmation of the terms of the agreement before being allowed to work. Any modification of the terms of the employment agreement should also be made in writing.
- The employer should also enclose additional written information about certain terms and conditions of employment in accordance with the specific provisions of the Labour Code. Such information for the employee includes:
  - the daily and weekly working time norms applicable to the employee,
  - the daily and weekly working hours norms applicable to the employee;
  - work breaks to which the employee is entitled
  - the employee's daily and weekly rest;
  - rules regarding overtime work and compensation for it;
  - in the case of shift work – the rules for moving from shift to shift;
  - in the case of several places of work – the rules on movement between places of work;
  - other components of remuneration and benefits in cash or in kind to which the employee is entitled, other than those agreed in the employment agreement,
  - the amount of paid leave to which the employee is entitled, in particular vacation leave or, if it is not possible to determine it at the date of providing the employee with this information, the rules for its determination and granting;
  - the applicable rules for termination of the employment relationship, including the formal requirements, the length of notice periods and the time limit for appeal to the labor court, or, if it is not possible to determine the length of notice periods on the date of providing the employee with this information, the method of determining such notice periods;
  - the employee's right to training, if the employer provides it, in particular the general principles of the employer's training policy;
  - the collective bargaining agreement to which the employee is covered,

And if the employer is not required to establish work regulations – in addition, the date, place, time and frequency of payment of remuneration for work, night time and the method adopted by the employer for employees to confirm their arrival and presence at work and justify their absence from work. No later than 30 days from the date of the employee's admission to work, of the name of the social security institutions to which social security contributions related to the employment relationship are paid and information on social security-related protection provided by the employer; this does not apply to the case in which the employee chooses the social security institution.

- Regardless of the name, the employment agreement has to identify the parties, the type of agreement, the date of its conclusion and the terms of work and pay, in particular:
  - type of work;
  - the place of performing the work;
  - remuneration for work corresponding to the type of work (with an indication of the components of remuneration);
  - working hours;
  - the date of starting work,
  - in the case of a probationary employment agreement: (a) its duration or the date of its termination, and, when the parties so agree, a provision for extending the agreement for the period of vacation, as well as for the period of other excused absence of the employee from work, if such absences occur, b) the period for which the parties intend to conclude a fixed-term employment agreement in case of the extension by one month or its predicted length.

1.6 TERMINATION OF EMPLOYMENT AGREEMENTS

- There are strict rules regarding the termination of an employment agreement regulated by provisions of the Labour Code. An employment agreement can be terminated:
  - by mutual agreement of the parties;
  - upon a declaration made by one of the parties with a notice period (termination by notice);
  - upon a declaration made by one of the parties without a notice period (termination without notice);
  - after the expiration of the period for which it was concluded.
- The period of termination notice of an employment agreement concluded for a probationary period depends on the length of its duration and is as follows:
  - 3 business days – if the probationary period does not exceed 2 weeks;
  - 1 week – if the probationary period is longer than 2 weeks;
  - 2 weeks – if the probationary period is 3 months.
- The period of termination notice of an employment agreement for an indefinite period and for a definite period depends on the length of employment with a given employer and amounts to:
  - 2 weeks – if the employee has been employed for less than 6 months;
  - 1 month – if the employee has been employed for at least 6 months;
  - 3 months – if the employee has been employed for at least 3 years.
- Please note that the termination notice has to be made in writing in cases other than concluding a mutual agreement – with periods of notice indicated above.

In case of termination of the employment agreement without notice, we can distinguish between a termination:

- **due to the employee's fault** – in case of: (i) the employee's grave breach of their basic duties; (ii) the employee commits a criminal offence during the term of the employment contract which makes it impossible to continue to employ them in their position;

Please note that termination of the employment agreement without notice due to the fault of the employee **should not take place after the lapse of 1 month from the date on which the employer becomes aware of the circumstance justifying the termination of the agreement.**
Moreover, the employer should make a decision on the termination of the agreement **after consulting the opinion of the company trade union organisation representing the employee,** which should be notified of the reason justifying the termination of the agreement. In the event of objections as to the justification for termination of the agreement, the company trade union organisation should express its opinion immediately, but no later than within 3 days.

- **without the employees' fault** – (i) if the employee's incapacity for work as a result of illness lasts for more than 3 months (if the employee has been employed with the employer for less than 6 months) or for more than the total period of receiving remuneration and allowance for this and receiving rehabilitation benefit for the first 3 months (if the employee has been employed with the employer for at least 6 months or if the incapacity for work was caused by an accident at work or an occupational disease), (ii) in the event of the employee's excused absence from work for reasons other than those mentioned above lasting more than 1 month.

It is worth noting that when the employer terminates the employment agreement for an indefinite and definite period, the notification should indicate **the reason of termination** of the employment relationship.

However, the reason for termination must always be indicated in the event of termination of an employment agreement by the employer without notice period due to the fault of the employee. Such reason for termination has to be **true, real, specific, justified and understandable for the employee.**

The employee has the right to appeal against the employer's decision of termination of the agreement before the labour court. If the reason for termination does not meet criteria mentioned above, the employee may seek compensation (as a rule max. up to 3 months' remuneration) or reinstatement to work to their previous position.

Parties to the employment agreement may also conclude **a mutual agreement on termination.** In this case they can freely choose the date on which the employment relationship ends (it may happen even from day to day).

1.7 NOTICE OF CHANGE

- The Labour Code also provides for the possibility of using a notice of change. This occurs when the employer wants to continue to employ a particular employee, but under different conditions. A notice of change involves simultaneously terminating an employee's existing terms and conditions of work and pay and proposing new ones. The obligation to provide a notice of change arises only in the case of a significant change in the contractual terms and conditions of work and pay, such as position, remuneration, working hours or place of work. The obligation to give a notice of change will also occur in the case of an amendment to the remuneration regulations or collective bargaining agreement, if the provisions introduced by these acts are less favourable to employees than the existing ones.
- The provisions on termination of an employment agreement apply accordingly to the notice of change. This means that the employer's statement should be in writing and include an instruction about the employee's right to appeal to the labour court within 21 days. In cases where the notice of change relates to an employment agreement for an indefinite and definite period , the employer is also obliged to provide the reason justifying the change and to notify the company trade union organisation representing the employee of its intention to give the change notice. A notice of change is considered to have been given if the employee is offered new conditions in writing. However, in situations where it is not possible to give an employee a notice of termination of the employment agreement, such as during sick leave, it is also not permitted to give a change notice.
- If the employee refuses to accept the proposed terms of work or pay, the employment agreement will be terminated at the end of the period of notice given. If the employee does not submit a statement of refusal to accept the proposed terms and conditions before the expiration of half of the notice period, they are is considered to have agreed to them. The notice of change given by the employer should contain an instruction on this matter. In the absence of such instruction, the employee may, until the end of the notice period, submit a statement of refusal to accept the proposed conditions.

A notice of change is not required if the employee is entrusted, in cases justified by the needs of the employer, with other work than that specified in the employment agreement for a period **not exceeding 3 months** in a calendar year, if this does not result in a reduction in pay and corresponds to the employee's qualifications.

1.8 PROTECTION AGAINST TERMINATION

- The Labour Code provides for restrictions on the possibility of termination of the employment agreement of certain categories of individuals. There is a prohibition on giving notice to certain employees. This prohibition applies, e.g. to:
  - employees on sick leave;
  - employees on vacation leave, maternity leave or unpaid care leave;
  - pregnant employees;
  - employees in pre-retirement age, i.e., with less than 4 years to obtain the right to a pension (if the period of employment allows them to obtain this right after reaching this age);
  - employees who are protected union activists.
- In the event of a declaration of bankruptcy or liquidation of the employer, the provisions concerning the consultation of the intention to terminate the employment agreement with the company trade union, the protection of employees of pre-retirement age and other special provisions concerning the protection of employees against termination or dismissal **will not apply.** This means that the employer **may terminate the employment agreement during:**
  - **pregnancy or maternity leave** – with notice in the event of bankruptcy or liquidation of the employer. The employer is obliged to agree with the company trade union organisation representing the employee on the termination of the employment agreement;
  - **childcare leave** (in Polish *urlop opiekuńczy*) – in the event of bankruptcy or liquidation of the employer, as well as when there are reasons justifying termination of the employment agreement without notice through the fault of the employee.
- Please note that if the termination of an employment agreement concluded for an indefinite or definite period or for a fixed period occurs due to a declaration of bankruptcy or liquidation of the employer or for other reasons not related to the employees, the employer may, in order to terminate the employment agreement earlier, reduce the period of notice of 3 months, but to a maximum of one month. In this case, the employee will be entitled to compensation in the amount of remuneration for the remaining part of the notice period.

1.9 COLLECTIVE DISMISSALS

- Collective dismissals occur when an employer who employs at least 20 employees, within a period not exceeding 30 days, carries out a reduction of employment, terminating the employment agreement or by mutual agreement of the parties for reasons not related to the employees, and the dismissals include:
  - 10 employees, when the employer hires less than 100 employees;
  - 10% of employees when the employer hires between 100 and 300 employees;
  - 30 employees, when the employer hires 300 or more employees.

When calculating the number of employees, temporary employees and other persons providing work on the basis of legal relationships other than employment (such as civil law contracts) are not included.

- The employer is obliged to consult the intention to perform collective dismissal with the company trade union organisations operating at the employer. Where there are no company trade union organisations, the employer consults with employee representatives.
- The employer is obliged to notify the company trade union organisations in writing about:
  - the reasons for the intended collective dismissal;
  - the period in which the dismissal is to be made;
  - the number of employees and professional groups to which they belong;
  - the professional groups of employees covered the intended collective dismissal;
  - the period within which such dismissal will be made;
  - the sequence in which the dismissals will be made;
  - the criteria for selection of employees;
  - proposals for the settlement of employee issues related to the intended collective dismissal, and if they include financial allowances, the employer is also obliged to present the method of determining

their amount.

- An agreement on collective dismissals should be concluded between the employer and the trade unions within **no more than 20 days** from the date of the employer's notification to the unions.
- If it is not possible to conclude an agreement between employer and all the trade unions operating at the employer, nor with representative organisations, the rules of procedure regarding collective dismissals, the employer should independently determine the regulations, taking into account, as far as possible, the proposals presented during consultations by company trade union organisations.
- After the conclusion of the agreement, and in the absence of an agreement after the issuance of the regulations, the employer notifies in writing the relevant district labour office of the adopted arrangements for collective dismissal, including:
    - the number of employed and dismissed employees;
    - the reasons for their dismissal.

information on the consultation of the intended collective dismissal with company trade unions or with representatives of selected employees.

- Termination of the employment relationship with an employee cannot occur earlier than after the expiration of 30 days from the date of notification to the district labour office, and if such notification is not required, not earlier than 30 days from the date of the agreement or issuance of regulations.
- In the case of reemployment of employees in the same occupational group, the employer should employ the employee with who they terminated an employment agreement as part of a collective dismissal, if the dismissed employee declares his/her intention to take up employment with the employer within one year from the date of termination of the employment agreement. The employer should reemploy the employee within a period of 15 months from the date of termination of their employment as part of a collective dismissal.
- Please note that in order for another dismissal not to qualify as a collective dismissal, it is necessary to wait 30 days from the end of the previous collective dismissal. There are no specific provisions regarding the timeline on reopening the possibility of hiring staff for the positions which have been eliminated during collective dismissal. However, such action should not happen in close proximity to collective dismissals, so that the apparent elimination of the position is not alleged.

1.10 SELECTED EMPLOYER OBLIGATIONS

- Please find below a list of particular basic employer obligations resulting from the Labour Code. The employer is obliged to:
    - familiarize the employee starting work with the scope of their duties, how to perform the work in the designated positions and their basic rights;
    - organize work in a way that guarantees the full use of working time and high productivity and due quality of work, considering the employee's talents and qualifications;
    - organize work in a way that reduces its inconvenience;
    - combat discrimination in employment;
    - ensure safe and hygienic working conditions and conduct systematic training of employees in the field of OHS;
    - pay remuneration timely and correctly;
    - facilitate employees to improve their professional skills;
    - provide for the social needs of employees to the extent of its resources;
    - apply objective and fair criteria for evaluating employees and their performance.
- Before signing the employment agreement, the employer is obliged to issue the employee with a referral for an initial medical examination. The employer cannot allow an employee to work without a current medical certificate stating that there are no contraindications to work in a specific position under the working conditions specified in the medical examination referral. The employer is obliged to cover the costs of the examinations: initial, periodic, check-up. In addition, the employer bears other costs of preventive health care for employees necessary due to working conditions.
- Upon signing the employment agreement, the employer is obliged to conduct health and safety training for the employee, which consists of:
    - **general instruction –** introducing the employee to the basic OSH regulations of the Labour Code, collective bargaining agreements or work regulations, the regulations and rules of OSH in force at the given workplace, as well as the rules of first aid in case of an accident;
    - **job instruction –** ensuring that employees are acquainted with the factors of the working environment present in their workplaces and the occupational risks associated with their work, ways to protect themselves from the dangers that these factors may cause, and methods for safe performance of work at these workplaces.

As well as occupational health examinations, the cost of health and safety training is covered by the employer.

- After which the employer should obtain a written confirmation that the employee has been acquainted with health and safety regulations. Such document should be kept in the employee's personnel file.
- Moreover, the employer informs the employee in writing (no later than within 7 days from the date of conclusion of the employment agreement) about issues listed in point 1.5.:
- Please note that the obligation to introduce work regulations (as well as pay regulations) applies to an employer with at least 50 employees (employed under an employment agreement).
- Importantly, due to the specific regulations, within 7 days of starting work, the employer must report the employee to the social security system.

LABOUR LAW

2. CIVIL LAW AGREEMENTS

2.1 OVERVIEW

- Civil law contract are characterised by greater flexibility regarding performing services. Importantly, there is no element of management and subordination. They are regulated by the Civil Code – not by provisions of the Labour Code. Thus, they do not guarantee any employment privileges. They give parties the opportunity to form the contractual provisions individually and quite freely. Among civil law contracts we can distinguish specific work contracts, contracts of mandate, and B2B contracts.
- When concluding civil law contracts, the method of confirming the number of hours of performance of an assignment or service must be specified. If the contract does not specify it, the service provider should submit in writing, electronically or in documentary form (e.g., by e-mail) the number of hours of the services provided, before the due date for payment of remuneration. The contractor may submit the number of hours together with **an invoice** (B2B contract) or **a bill** (contract of mandate). A company that works with such staff has to keep records of the time spent on performing the activities specified in the contract.
- However, despite the fact that these are not employment relationships, **the minimum wage regulations apply** (but only if the contractor does not independently employ employees or contractors).

2.2 CONTRACT OF MANDATE

- By a contract of mandate, the contractor undertakes to perform a specific activity for the benefit of the principal. The principal or contracting party, is the person or entity that entrusts the performance of certain activities.
- The commissioner, or contractor, is the person or entity that performs the service. The contractor may entrust the performance of the activities to a third party in case it is based on contract or custom or if they are forced to do so by circumstances. In such a case, they have to inform the principal without undue delay of the person and place of residence of their substitute.
- A contract of mandate concerns the performance of tasks that involve repetitive activities. The contractor is obliged to act conscientiously and with due diligence in performing the activities. Unlike in the case of an employment agreement, a contract of mandate does not allow for the far-reaching subordination of the person performing the work, the detailed organisation of work by the principal – in particular the setting of hours and place of work, and the performance of tasks according to instructions and ongoing orders.
- The contractor may be an individual person. There is no requirement for the contractor to conduct a business activity in order to conclude a contract of mandate. In practice, such a contract is quite often use for hiring interns (people under the age of 26).
- Please note that the regulations on the minimum hourly rate for work apply to contracts of mandate – **in 2023, – PLN 23.50.**

2.3 CONTRACT FOR SPECIFIC TASK

- In a contract for specific task, the ordering party entrusts the commissioning party to perform a specific work for remuneration. What is characteristic is that it has to lead to **a specific, individualized result** that may have a material form (e.g. a material object) or an intangible form (e.g. a website).
- It is worth noting that a contract for specific task is not about performing repetitive actions – the result of a works contract must be predetermined. A contract for a specific work is usually concluded on a singular basis, as the parties agree on a specific work and not on the performance of a service.

2.4 B2B AGREEMENT (SERVICE AGREEMENT)

- A B2B contract is concluded between two entrepreneurs, such as between a contracting party and a service provider.
- It is worth mentioning that the service provider is conducting business activity as a sole trader who may undertake business activity on the day of submitting the application for entry in the register of economic activity (*Centralna Ewidencja i Informacja o Działalności Gospodarczej*) - except in the case when the provisions of the law stipulate that a respective activity is subject to the obligation to obtain a concession or permit.
- Remuneration for services performed with reference to the B2B agreement is payable based on the invoice issued by a service provider. Please note that when concluding a B2B contract, minimum hourly wage regulations apply (but only for those who do not hire employees on their own).
- **In 2023, the minimum hourly rate is PLN 23.50 per hour gross.**
- The B2B agreement is a very flexible form of cooperation. The parties may quite freely agree on the scope of the agreement, as it is not strictly regulated by the law (otherwise than by an employment agreement). Of course, provisions of the B2B agreement cannot be contrary to principles of community life or unfair. It also involves a high degree of contractor autonomy (regarding, e.g. place and time of work), i.e. there is no subordination between a contracting party and the contractor.

2.5 TERMINATION OF CIVIL LAW AGREEMENTS

- The Labour Code provisions on notice periods **do not apply** to civil law contracts. Therefore, parties can freely determine the period of notice in the agreement.
- Such contracts may be terminated at any time. The parties should regulate this issue in the contract and specify the notice period.

2.6 RISK OF RECLASSIFICATION OF A CIVIL CONTRACT INTO AN EMPLOYMENT RELATIONSHIP

- In Poland, under the principle of freedom of contract, parties can freely decide about rules of their cooperation (with a view to the specific provisions). However, there are some situations in which provisions of the agreement may indicate that it is an employment agreement (even if it is named in a different way).
- As mentioned above, according to the Polish Labour Code, an employee undertakes to perform work of a specific type for the employer and under its direction and at a place and time designated by the employer, and the employer – to employ the employee for remuneration. Employment of employees under the conditions specified above is considered an employment relationship, regardless of the name of the contract entered into by the parties. **It is not allowed to replace an employment agreement with a civil law contract while maintaining the working conditions specified above.**
- Please note that replacing an employment agreement with a civil law contract when the work **is performed in a typical way for employment is prohibited and may result in the reclassification** of the civil law contract into an employment agreement.
- Therefore, when cooperating on the basis of civil law contract and employment agreements, it is important that the forms are indeed different and that employees and contractors are treated in accordance with the nature of the relationship they have established.
- The reclassification may result in negative consequences, e.g. contractors/associates may claim employee's benefits, e.g. related to overtime, allowances, holidays, bonuses etc. Moreover, as regards to social security, if the improper basis for cooperation resulted in a lower amount of social security contributions or the contributions were not paid at all, the employer may be obliged to pay due contributions together with interest for delayed payments.
- An employer who concludes a civil law contract in circumstances where, in accordance with the Labour Code, an employment agreement should have been concluded, will be subject to a fine of **PLN 1.000 to PLN 30.000.**

WORKING COSTS | LABOUR COSTS

1. OVERVIEW

- Labour costs are the sum of gross remuneration –including advance payments for personal income tax and contributions to pension, sickness, accidence insurance and non-wage expenses (e.g. occupational health examinations, OHS training, costs of keeping employee records).
- Employers and principals are required to deduct from remuneration **advance payments for personal income tax** and **social security contributions** the amount of which depends on the type of contract and other conditions. In addition, they also partially contribute to these costs, as well as being obliged to pay other contributions, these are known as employer costs.
- The issue of PIT and details of social security contributions is comprehensively presented and discussed in Tax section of this Guide.
- The employer is also obliged to contribute to the State Fund for Persons with Disabilities (PFRON). The obligation to pay a contribution to the Fund and the amount of the contribution depends on the number of employees, their average salary and the total number of disabled employees.

2. SOCIAL SECURITY SYSTEM

2.1 OVERVIEW

- Pursuant to Polish law, social insurance includes pension, disability, accident and sickness insurance. These types of insurance can be compulsory or voluntary.

- The below table shows the scope of social security contributions according to the basis of cooperation:

Type of cooperation	Obligatory social insurance
A. Employment	Pension, disability, sickness, accidence
B. Contract of mandate	Pension, disability, accidence
C. B2B agreement	Pension, disability, sickness
D. Contract for performance of specific work	N/A

- Although individuals performing activities under a contract for specific work are not subject to social insurance, from 1 January 2021 the payer of contributions or the natural person commissioning the work must inform the Social Insurance Institution about the conclusion of each contract for specific work within 7 days from the date of its conclusion.
- The periods of social security coverage also differ depending on the basis of the cooperation between the parties.

Type of cooperation	Period of insurance
A. Employment	From the date of establishing the employment relationship until the date of termination of the employment relationship.
B. Contract of mandate	From the date specified in the contract as the date on which performance of the contract commences until the date of termination or expiry of the contract (if the contract of mandate is the only title for insurance, i.e. the hired person is not insured under another title, e.g. students up to 26 years old).
C. B2B agreement	From the date of commencement of the activity to the date of cessation of the activity, excluding the period for which the pursuit of activities has been suspended.
D. Contract for performance of specific work	N/A

2.2 EMPLOYMENT AGREEMENT

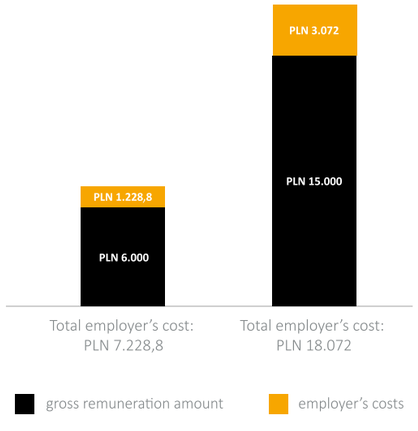
- With regard to employment agreements, the employer is obliged to register the employee with the Social Insurance Institution and to deduct from his/her remuneration the social security contributions due for each calendar month.
- The rates for employees' social security contributions are:
  - pension insurance – 19.52% of the contribution base;
  - annuity insurance – 8% of the contribution base;
  - sickness insurance – 2.45% of the contribution base;
  - health insurance – 9% of the contribution base;
  - accident insurance – the contribution rate varies. The method for determining the percentage rate of contributions for accident insurance depends on the number of insured persons reported by the employer as the payer of the contributions.
  - Labour Fund – 2.45% of the contributions base; Employee Guaranteed Social Benefit Fund – 0.10% of the contribution base.

- The rates of social security contributions financed by the employer (this is an additional cost for the employer to bear in addition to the employee's remuneration) are:
  - pension insurance – 9.76% of the contribution base;
  - annuity insurance – 6.50% of the contribution base;
  - accident insurance – from 0.67% to 3.33% of the contribution base (financed entirely by the employer);
  - Labour Fund – 2.45% of the contribution base (financed entirely by the employer);
  - Employee Guaranteed Social Benefit Fund - 0.10% of the contribution base (financed entirely by the employer).
- The rates for social security contributions financed by the employee (deducted by the employer from the employee's monthly salary) are:
  - pension insurance – 9.76% of the contribution base;
  - annuity insurance – 1.50% of the contribution base;
  - health insurance – 9% of the contribution base (financed entirely by the employee);
  - sickness insurance – 2.45% of the contribution base (financed entirely by the employee).

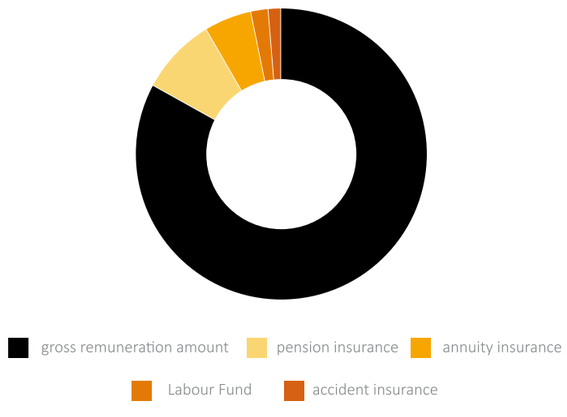
Type of contribution	Paid by the employee	Paid by the employer
Pension insurance	9.76%	9.76%
Annuity insurance	1.50%	6.50%
Accident insurance	-	from 0.67% to 3.33%
Sickness insurance	2.45%	-
Health insurance	9%	-
Labour Fund	-	2.45%
Employee Guaranteed Social Benefit Fund	-	0.10%

- The basis for the assessment of social insurance contributions of an employee is income from the employment relationship and related relationships, i.e. all kinds of cash payments and the monetary value of benefits in-kind or their equivalents (regardless of the source of their financing), and in particular basic remuneration, remuneration for overtime hours, allowances of various kinds, bonuses, equivalents for unused vacation, as well as cash benefits incurred for the employee and the value of other unpaid benefits or partially paid benefits.
- The graphs below show how the employer's costs are distributed (e.g. for a monthly remuneration of PLN 6,000 and PLN 15,000:

EXAMPLES OF TOTAL EMPLOYER COSTS



EXAMPLE OF DISTRIBUTION OF EMPLOYER'S COSTS AT A REMUNERATION OF PLN 6.000 GROSS



2.3 CONTRACT OF MANDATE

- Contractors are obligatorily covered by pension, disability, accident and health insurance. As a general rule, contractors are not covered by sickness insurance - unless they request so. The principal is obliged to deduct, settle and pay the contributions due for each calendar month.
- The rates for social security contributions for contractors financed by the principal amount to:
  - pension insurance – 9.76% of the contribution base;
  - disability insurance – 6.50% of the contribution base;
  - health insurance – 9% of the contribution base;
  - sickness insurance – obligatory only for employees (if the contractor decides to be subject to the insurance, he/she pay contributions on their own);
  - accident insurance – financed entirely by the company;
  - Labour Fund – 2.30% of the contribution base;
  - Employee Guaranteed Social Benefit Fund - 0.10% of the contribution base.
- The rates for social security contributions for contractors financed by them amount to:
  - pension insurance – 9.76% of the contribution base;
  - disability insurance – 1.50% of the contribution base;
  - sickness insurance – financed entirely by contractor (if the contractor decides to be subject to the insurance).

Type of contribution	Paid by the contractor	Paid by the principal
Pension insurance	9.76%	9.76%
Disability insurance	1.50%	6.50%
Accident insurance	-	Financed entirely by the company
Sickness insurance	Voluntary, financed entirely by the contractor	-
Health insurance	9%	-
Labour Fund	-	2.30%
Employee Guaranteed So-cial Benefit Fund	-	0.10%

2.4 B2B CONTRACTS

- Individuals providing services under a B2B contract themselves pay contributions to pension, disability, accident and voluntary sickness insurance.
- For self-employed persons, participation in voluntary sickness insurance may take place from the date indicated in the application, provided that they are enrolled in mandatory pension and disability insurance.

2.5 INTERNATIONAL AGREEMENTS ON SOCIAL SECURITY

- It is worth noting that Poland has signed international agreements on social security with 13 states outside the EU, EEA and Switzerland:
  - Yugoslavia (currently applicable to Montenegro, Serbia, Bosnia and Herzegovina);
  - Macedonia;
  - United States of America;
  - Canada;
  - Quebec;
  - South Korea;
  - Australia;
  - Ukraine;
  - Moldova;
  - Mongolia;
  - Israel;
  - Turkey;
  - Belarus.

- Bilateral international social security agreements ensure coordination of the social security systems existence in Poland and the other contracting state. These agreements are to facilitate the insured's acquisition of rights to social security entitlements, such as the right to pension, disability, sickness allowances, etc. Please be aware that the scope of each of the above agreements is different and each case should be considered individually.

2.6 PERSONAL INCOME TAX - EMPLOYMENT INCOME AND INCOME FROM ACTIVITY PERFORMED PERSONALLY

- Employment income and income from personally performed activities (e.g., civil law contracts) are taxed according to the tax scale at progressive rates of **12%** and **32%.**
- This issue is comprehensively described in the Tax section of this Guide.

2.7 COMPANY SOCIAL BENEFIT FUND ("CSBF")

- Employers who on 1 January of a given year have at least 50 full-time employees are required to set up a Company Social Benefit Fund. Those who on 1 January of a given year, employ between 20 and 50 full-time employees, should set up a CSBF at the request of the company trade union organisation.
- The CSBF is used to finance social activities, various forms of leisure, cultural and educational activities, sports and recreational activities or childcare.
- Those entitled to benefit from the CSBF are:
  - employees of the relevant workplace and their families,
  - retired employees and pensioners-former employees with their families,
  - other persons entitled to use the fund by the employer.
- The basic allowance is 37.5% per employee. The basic allowance is based on the national average monthly wage in the previous year or in its second half- whichever is higher.

WORKING TIME | WORKING HOURS

1. OVERVIEW

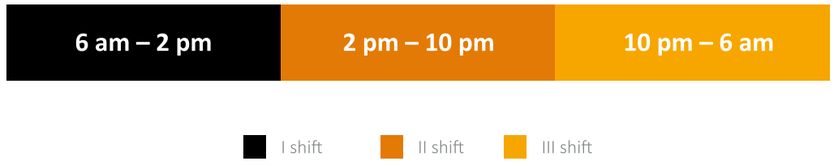
- Working time is the time during which the employee is at the disposal of the employer in the workplace or at another place designated for the performance of work. An employee is obliged to remain at the disposal of the employer at a place other than the workplace when it results from the employment agreement, the employer's order, work regulations or other labour legislation.
- With regard to mobile workers, it is assumed that the working time of such employee performing business duties in a specific area, for which it is necessary to change, the time spent on necessary travel is also considered as a working time.
- However, as a general rule, a business trip is not working time if the employee does not perform work during the trip. An exception to this rule is travel taken during normal working hours or when the work involves continuous performance of activities outside the workplace (so-called „field work"), as mentioned above.
- The employer may send an employee on a business trip in the performance of their duties and is then obliged to refund the costs of travel, travel by local transportation, accommodation, other necessary documented expenses, as determined or recognized by the employer in accordance with legitimate needs. Such an employee is also entitled to a travel allowance to cover increased food expenses.

2. DAILY AND WEEKLY NORMS

2.1 HOURLY NORMS

- The definition of a **basic working time** says that working time cannot exceed **8 hours** per day and an average of **40 hours** in an average five-day work week, in the reference period adopted by the employer (not more than 4 months).
- However, the Labour Code provides exceptions to the above mentioned rule, i.e.:
  - **Shortened working week system** - it is allowed for an employee to work for less than 5 days during the week, while increasing the daily working hours - not more than to 12 hours - in a reference period not exceeding a month.
  - **Weekend working system**- work is provided only on Fridays, Saturdays, Sundays and holidays. It is allowed to extend the daily working hours - but not more than 12 hours - in a reference period not exceeding a month;
  - **Interrupted working time system** – used if justified by the nature of the work or its organisation (it may be used according to a predetermined schedule providing for no more than one break per day lasting no more than 5 hours);
  - **Task-based working time system** – used in cases justified by the nature of the work or its organisation or the place of work;
  - **Short-time working system** – for those employed in conditions that are particularly difficult or particularly harmful to health;
  - **Four brigade working time system** - involves the mutual substitution of employees in the same workplace. This is a system in which employees are divided into four groups, a three-shift model in which work takes place in the morning, afternoon or night (one of the four groups takes a rest during this time);
  - **Balanced working time system** - up to 12 hours (basic), up to 16 hours (for employees engaged in work involving the supervision of equipment or involving partial standby duty), up to 24 hours (for employees working in the security or protection of persons, as well as employees of company fire brigades and rescue services).
    Shift work can be introduced in any working time system.
    Moreover, please note that linked to the balanced working time system is **the working time schedule**, i.e. the plan laid out for the employee for a minimum of one month in written or electronic form, giving details of the employee's general working time schedule. It should be communicated 7 days before the start of the period to which it applies.
    However, an employer is not obliged to draw up a schedule if:
    - the employee's working time schedule results from labour law, a notice (if the employer is not covered by a collective agreement) or from the employment agreement;
    - the employer, in agreement with the employee, determines the time necessary to perform the assigned tasks- in such a case, the working time schedule is determined by the employee;
    - at the written request of the employee, applies mobile working time or the employer determines the employee's individual working time schedule.

EXAMPLE OF A TYPICAL SCHEDULED SHIFT WORK IN A POLISH FACTORY:



- Importantly, the implementation of a shortened working week system and weekend working system should be made at the employee's written request.

2.2 RIGHT TO A BREAK

If the daily working time:

- is at least 6 hours – the employee is entitled to a break of at least 15 minutes;
- is longer than 9 hours – the employee is entitled to an additional break at work lasting at least 15 minutes;
- is longer than 16 hours – the employee is entitled to another work break lasting at least 15 minutes.

- It is common practice that break times are extended (maximum to an hour) – for example, employees are given this time for lunch or in order to deal with personal matters. However, please note that such break is not included in the working time.
- Moreover, the employer must provide employees with a break of at least 5 minutes, included in working time, after each hour of working with a screen monitor.

2.3 RIGHT TO UNDISTURBED REST

- An employee is entitled to at least **11 hours** of uninterrupted rest in each day. The exception applies:
  - to employees who manage the workplace on behalf of the employer,
  - in case the employee's work is necessary for rescue operations to protect human life or health, to protect property or the environment, or to remove an accident.
- An employee is entitled to at least 35 hours of uninterrupted rest each week, which includes at least 11 hours of uninterrupted daily rest. In case of:
  - employees managing the workplace on behalf of the employer;
  - necessity to carry out rescue operations to protect human life or health, to protect property or the environment or to rectify an accident;
  - a change in the employee's working time due to their change of shift, in accordance with a fixed working time schedule

  – the weekly uninterrupted rest period may include less hours, but may not be less than 24 hours.

3. WORKING OVERTIME

- Work performed in excess of the working time norms applicable to the employee, as well as performed in excess of the extended daily working hours resulting from the working time system and schedule applicable to the employee, is **overtime work.** It refers to an extraordinary and unforeseeable event. Accordingly, overtime work cannot be planned in advance.
- Overtime work is permitted in case of:
  - emergency action to protect human life or health, to protect property or the environment, or to rectify an accident;
  - special needs of the employer.
- Please note that the obligation to work overtime happens when the employee is instructed to do so. There is no specific form of such an instruction, however, any behavior of the superior which indicates his/her will in a sufficiently clear manner is acceptable.
- Overtime **cannot exceed 150 hours** in a calendar year for a certain employee. However, it is allowed to set a different number of overtime hours per calendar year than specified above, in a collective bargaining agreement, work regulations or in an employment agreement (if the employer is not covered by a collective bargaining agreement or is not required to establish work regulations).
- Weekly working hours including overtime cannot exceed an average of 48 hours in the adopted pay period. However, this does not apply to employees who manage the workplace on behalf of the employer, e.g. employees who are part of the workplace's management organ and chief accountants.
- An employee working overtime is entitled to an allowance in the amount of:
  - **100%** of remuneration - for the nights, Sundays and holidays worked - which according to the employee's work schedule, are not his/her working days, or days off granted to the employee in exchange for Sundays or holidays worked according to the employee's work schedule;
  - **50%** of remuneration – for work on any day other than mentioned above;
  - **100%** of remuneration – for each hour worked in excess of the average weekly norm in the reference period, unless the excess of the norm was due to overtime work for which the employee is entitled to the allowances mentioned above.

- In exchange for the time worked overtime, the employer may, at the written request of the employee, grant time off in the same amount.
- Time off in lieu of overtime worked may also be granted without the employee's request. In this case, the employer should grant time off (at the latest by the end of the reference period)- in the amount of half the number of overtime hours worked, but this should not result in a reduction of the remuneration due to the employee for the full monthly working time.
- In such a case, the employee is not entitled to overtime allowance.
- Please note that pregnant employees and youth workers are not allowed to work overtime. Moreover, it is not allowed to assign working overtime to an employee caring for a child up to the age of 8 without his/her consent.
- The below table summarizes the rates for overtime, holiday and night work, with information on how these amounts accumulate.

TYPE OF WORK	REMUNERATION ALLOWANCE (increase in basic hourly rate)
Overtime	Regular remuneration plus an allowance of 50% of the remuneration for every hour of overtime
Night work	20% of the hourly rate resulting from the minimum wage
Overtime during night work	Regular remuneration plus an allowance of 100% of the remuneration for every hour of overtime
Overtime during holidays	Regular remuneration plus an allowance of 100% of the remuneration for every hour of overtime
Hours worked in excess of the average weekly norm in the reference period, unless the excess of the norm was due to overtime work for which the employee is entitled to the allowances mentioned above.	Regular remuneration plus an allowance of 100% of the remuneration for every hour of overtime

4. NIGHT WORK

- Night time covers 8 hours between the 9 p.m. and 7 a.m. A detailed specification of the hours of the beginning and end of night time is made by the employer (alone or in agreement with the company trade union). A relevant regulation in this respect should be included in a collective agreement, work regulations or a notice.
- An employee whose work schedule includes at least 3 hours of night work in each day, or at least ¼ of whose working time in the pay period falls during night time, is a **night worker.**
- An employee performing night work is entitled to an allowance for each hour of night work in the amount of **20%** of the hourly rate resulting from the minimum remuneration.
- Moreover, there is a prohibition on the employment of pregnant employees and youth employees at night time. Also, an employee caring for a child up to the age of 8 cannot be employed at night time without his/her consent.
- Please note that the obligation to define night time applies to all employers. There is no obligation to define the night time framework uniformly for all employees - it can be formed differently in the different organisational units of the workplace and even for individual employees.

5. DAYS FREE OF WORK

- According to labour law provisions, days free of work are Sundays and holidays specified in the regulations on public holidays (i.e. Act of 18 January 1951 on Public Holidays).
- However, work on Sundays and holidays is permitted, i.a.:
  - when it is necessary to carry out rescue operations to protect human life or health, to protect property or the environment, or to remove an emergency;
  - when carrying out works that are necessary due to their social usefulness and the daily needs of people - in particular in services, gastronomy, hotels, establishments engaged in cultural, educational, tourism and recreational activities;
  - in respect to shift work (so called *24-hours shift*);
  - in transportation and communication;
  - in agriculture and farming;
  - when performing services with the use of electronic communication measures or telecommunication devices, received outside the territory of Poland (if for the receiver of the service provider these days are working days).
- As a general rule, employees working on Sundays and holidays are entitled to another day off in lieu.
- Please note that there are restrictions on working in retail establishments on Sundays and holidays regulated by special law (i.e. Act of 10 January 2018 on Restriction of Trade on Sundays and Holidays and on Certain other Days). As a general rule, on Sundays and holidays in retail establishments:
  - trade and performance of trade-related activities; and
  - entrusting an employee to perform work in trade and carry out activities related to trade

  – are prohibited. However, there are many exceptions to this rule.

6. VACATION

- Every employee is entitled to paid annual leave. The amount of annual leave depends on the period of employment, i.e. seniority, and is as follows:
  - **20 days** – if the employee has worked for less than 10 years;
  - **26 days** – if the employee has worked for more than 10 years.
- Importantly, the calculation of seniority also includes the period of education according to the following:
  - basic vocational school - course duration, but not more than 3 years,
  - secondary vocational school - course duration, but not more than 5 years,
  - secondary school of general education - 4 years,
  - vocational college - 6 years,
  - higher education institution - 8 years.

  – the above periods are not summed up.
- Please note that an employee taking up employment for the first time in the calendar year in which he/she has started work, is entitled to leave **at the end of each month of work - at the rate of 1/12** of the leave to which he/she is entitled after having worked for a year.

- Moreover, please keep in mind that in case of termination of the employment relationship it is possible to give the employee the days of annual leave to which he/she is entitled or pay in lieu of unused leave.
- In addition, employees are entitled to other types of leave:
  - **leave on demand** – granted at the request of the employee, the employer has to give permission, max. 4 days per year deducted from the number of days of annual leave;
  - **special leave** – granted in connection with an important event, such as own wedding, birth of a child, death of a close family member);
  - **training leave** – granted for 6 to 21 days depending on the exam being taken;
  - **leave related to parenthood;**
  - **leave for job search** – granted for 2-3 days depending on the length of the notice period;
  - **unpaid leave** – granted with the consent of the employer, without a limit of days per year.
  - **caregiving leave** – up to 5 days of caregiving leave to provide personal care or support to a person who is a family member or resides in the same household and who requires significant care or support for serious medical reasons. The leave is **unpaid**.
  - **force majeure leave** – due to force majeure, in urgent family matters due to illness or accident, if the employee's immediate presence is necessary, the employee will be entitled to a leave of absence of 2 days or 16 hours per calendar year. The employee is entitled to 50% of the remuneration.

7. PARENTHOOD ENTITLEMENTS

7.1 OVERVIEW

Parent employees are entitled to additional privileges that have been discussed in previous subsections, such as protection from dismissal, prohibition of overtime without a consent, etc., as well as additional leave: maternity leave, paternity leave, childcare leave, paternal leave, time off for taking care of a child.

7.2 MATERNITY LEAVE

In general, maternity leave is granted to a woman who has given birth to a child and is 20 weeks, but may be extended depending on the number of children born at one birth.

7.3 PATERNITY LEAVE

An employee-father raising a child is entitled to paternity leave of up to 2 weeks, but no longer than until the child is 12 months old.

7.4 PATERNAL LEAVE

Parental leave is set as a maximum and is up to 41 weeks for the birth of one child and up to 43 weeks for the simultaneous birth of more than one child. As a condition for an employee to take parental leave, regardless of which parent of the child will use it, the employee must either use maternity leave in advance or end maternity allowance for the period corresponding to the period of maternity leave and apply to the employer in writing for such leave. The employer is obliged by the employee's request. The legislator has introduced the exclusive right of each parent-employee to 9 weeks of parental leave as part of the total parental leave. Neither parent can waive the right to these 9 weeks of parental leave in favour of the other.

7.5 CHILDCARE LEAVE

Childcare leave is a maximum of 36 months and can be taken by both the mother and father if both are employees. This leave is granted to an employee to care for a young child until the child reaches the age of 6, unless the child requires longer care due to a disability. Childcare leave may also be granted in parts.

7.6 TIME OFF TO TAKE CARE OF A CHILD

Any employee, regardless of gender, who raises a child up to the age of 14 is entitled to 16 hours or 2 days per year of paid time off from work.

EMPLOYMENT OF FOREIGNERS

1. EMPLOYMENT OF FOREIGNERS FROM THE EUROPEAN UNION, THE EUROPEAN ECONOMIC AREA AND SWITZERLAND

- Citizens of member states of the European Union, the European Economic Area (EEA) and citizens of Switzerland – differently as for foreigners from so-called *third countries* (i.e. non-citizens of those countries) – **do not need to have a work permit.** They are also not required to obtain a visa or a temporary residence permit in Poland. In the case of entrusting the performance of work to such a foreigner, it is sufficient to request a valid identity document from the foreigner before allowing him/her to work indicating the individual's citizenship.
- It is worth noting that the employment agreement concluded with the foreigner should also be written in a language that he/she understands, or at least should be translated to an employee before signing.
- A citizen of a country belonging to the European Union, the EEA and a citizen of Switzerland is obliged to **register his/her residence in Poland if it exceeds a period of 3 months.** The application for registration of residence should be submitted by the foreigner no later than the following day after the expiry of 3 months from the date of entry into the territory of Poland. The application should be submitted to the governor with jurisdiction over the foreigner's place of residence. After registration, the foreigner is issued a certificate of residence registration of an EU citizen.
- The failure to register the residence in Poland of foreigners referred to above, is subject to a fine of up to **PLN 5.000.** In the case of this category of foreigners, the employer or principal **is not responsible** for irregularities regarding the foreigner's stay in Poland.
- Importantly, the foreigner's failure to comply with his/her obligations does not give grounds to consider the work performed by such a foreigner as illegal and to apply sanctions on this account against the employing entity and the foreigner.
- In addition, it is allowed to employ a foreigner from a third country without obtaining a work permit, if he/she accompanies a citizen of an EU/EEA country or Switzerland on the territory of Poland- as a member of his or her family.

2. EMPLOYMENT OF CITIZENS OF THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND

- The conditions for residence and work of citizens of the United Kingdom of Great Britain and Northern Ireland (the „**UK**") in Poland after 1 January 2021 depend on whether and how long a particular person stayed in Poland before the end of the Brexit transition period, i.e. before 31 December 2020.

- UK citizens who are beneficiaries of the Agreement on the withdrawal of the United Kingdom of Great Britain and Northern Ireland from the European Union and the European Atomic Energy Community (2019/C 384 I/01) (the "**Withdrawal Agreement"**) **can work and reside in Poland on the same terms as citizens of EU member states.** There are no additional requirements they need to fulfill- in particular, they do not need a work permit, residence permit or visa to retain the right to stay and the right to work.
- The beneficiaries of the Withdrawal Agreement also include family members of such citizen.
- In order to qualify as a beneficiary of the Withdrawal Agreement, a UK citizen must meet all of the following conditions:
  - resided legally in Poland before the end of the transition period, i.e. before 31 December 2020 (also if their entered Poland after the Brexit date but before the end of the transition period, i.e. between 1 January 2020 and 31 December 2020);

    and
  - resides in Poland after 31 December 2020.
- To acquire and keep the rights of a beneficiary of the Withdrawal Agreement, the stay of a UK citizen in Poland immediately before and after the expiration of the transition period, i.e. as of 31 December 2020 and 1 January 2021, must be uninterrupted, i.e.:
  - breaks in residence did not exceed a total of 6 months in a year;
  - leaving the territory of Poland for a period longer than 6 months occurred due to:
    (i) compulsory military service,
    (ii) an important personal situation – in particular pregnancy, childbirth, illness, studies, secondment, which requires stay outside this territory (provided that this period is no longer than 12 consecutive months).
- To confirm the acquired rights to stay and work the beneficiary of the Withdrawal Agreement on the territory of Poland must apply for registration of residence and issuance of a **certificate of registration of residence**, or apply for a document confirming the right of permanent residence, issuance of a residence card (for a family member who is not a UK citizen) and issuance of a permanent residence card (for a family member who is not a UK citizen).
- The documents referred to above are residence permits that entitle to travel within the Schengen area **without a visa.**
- From 1 January 2021, UK citizens who continuously, immediately before and after the transition period, performed work in Poland or carried out other gainful activity in their own name and on their own account in the territory of Poland without residing in Poland (i.e., returned to their country of residence) and want to continue this work or activity, **must register their stay with the voivodship office with jurisdiction over their place of residence.** After registration, they will receive a certificate with an annotation confirming their eligibility as **a frontier worker** under the Withdrawal Agreement. Such certificate entitles entry into Poland without a visa, but does not entitle travel within the Schengen area without a visa.
- UK citizens who do not meet the above conditions are treated **as third-country citizens** (i.e., do not belong to the European Union, the European Economic Area or Switzerland) in terms of residence and performance of work or business in Poland. **They are entitled to visa-free travel for a maximum of 90 days within a 180-day period.** A longer stay will require obtaining a visa. Moreover, in such a case, working in Poland will require obtaining the appropriate work permit.

3. FOREIGNERS RELEASED FROM THE WORK PERMIT OBLIGATION

- As a general rule, third-country citizens have to obtain a permit to perform work in Poland. However, the regulations provide for a range of exceptions in which foreigners do not need a work permit. Nevertheless, in order to perform work, they must have legal residence in Poland (a residence permit, visa, etc.).
- Exempted from the obligation referred to above, are foreigners who, i.a.:
  - have a permanent residence permit,
  - have a residence permit for a long-term resident of the EU,
  - have a spouse of a Polish citizen,
  - have a valid Pole's Card (in Polish *Karta Polaka*),
  - are full-time students at a Polish university,
  - are graduates of Polish secondary schools or full-time university studies,
  - are foreign language teachers (performing work in kindergartens, schools, institutions, etc.),

- have refugee status,
- have a visa Poland Business Harbour (type D23),
- have a humanitarian visa (type D21)

and many other particular cases specified in executive acts.

- It is worth noting that citizens of i.a.: the **Republic of Armenia, the Republic of Belarus, the Republic of Georgia, the Republic of Moldova or Ukraine**, performing work for a period not exceeding 24 months (except seasonal work), are exempt from the obligation to have a work permit. They can perform work in Poland on the basis of a **statement on entrusting work to a foreigner**, further described in the following subsection.

4. STATEMENT ON ENTRUSTING WORK TO A FOREIGNER

- The employer may use the simplified procedure in the case of citizens of i.a.: the Republic of Armenia, the Republic of Belarus, the Republic of Georgia, the Republic of Moldova or Ukraine. An employer may submit a statement of intent to entrust work to a foreigner if:
  - the foreigner is a citizen of one of the countries mentioned above,
  - the date of commencement of work will be no later than in 6 months from the date of the statement,
  - the period of employment will not exceed 24 months,
  - the work that will be performed is not related to seasonal work, for which it is necessary to obtain a permit*
  - the amount of remuneration of the foreigner will not be lower than the remuneration of employees performing work of a comparable type or in a comparable position.

and all of the conditions indicated above are met cumulatively.

**seasonal work is work performed for no more than 9 months in a calendar year in the sectors of agriculture, horticulture, tourism in activities considered seasonal.*

- The statement has to be submitted before the foreigner starts work to the appropriate district labour office. Please note that the foreigner can begin work only after the district labour office enters the statement in the specific register.
- As a general rule, the procedure for entering the employer's statement on entrusting work to a foreigner takes **7 days.**
- If the office enters the statement in the register, the employer is obliged to:
  - inform the district labour office in writing about the undertaking (at the latest on the date of commencement of work) or failure to undertake work by the foreigner;
  - conclude a contract with the foreigner under the terms indicated in the statement;
  - respect all obligations arising from the assignment of work – the same as for Polish employees.
- The stamp duty on the submission of the statement is **PLN 100.**

5. WORK PERMIT FOR FOREIGNERS

- An employer having its registered office on the territory of Poland, intending to employ a foreigner who is a citizen of a country that is not a member of the European Union or the European Economic Area or Switzerland, should apply for a **type A or B work permit** for such employee.
- A **type A work permit** is issued to a foreigner performing work in the territory of Poland, based on a contract with an employer whose registered office, place of residence or branch, facility or other form of organized activity is located in the territory of Poland.
- A **type B work permit** is issued to a foreigner who:
  - holds a function on the Management Board of a legal entity entered in the Register of Entrepreneurs or the Management Board of a capital company in organisation;
  - manages the affairs of a limited partnership or a limited joint-stock partnership as a **general partner** or a **proxy** - if he/she has performed this function for more than 6 months in a consecutive 12-month period.
- An application for a type A or B work permit should be submitted to the voivodship office having jurisdiction over the employer's registered office. The stamp duty on the application is:
- **PLN 50** – for issuing a permit (in case of entrusting work performance to a foreigner for up to 3 months);
- **PLN 100** – for issuing a permit (in case of entrusting work performance to a foreigner for more than 3 months).

- For the issuance of a work permit, the waiting time is up to **1 or 2 months** (in some cases, however it may be longer).
- Type A and B work permits are issued for a limited period:
  - **type A work permit** for a period of no more than 3 years;
  - **type B work permit** can be issued for a period of 3 years- unless the legal entity employs more than 25 people, in which case the permit can be issued for a period of no more than 5 years.
- The employer may apply for renewal of the permit (no earlier than 90 and no later than 30 days before the expiration of the permit).

6. NATIONAL VISA FOR THE PURPOSE OF WORK

- A visa entitles the holder to enter the territory of the Republic of Poland and to a continuous stay or several consecutive stays in the territory, which together last more than 90 days during the period of validity of the visa and no more than one year.
- In order to obtain a national visa in order to perform work in Poland, it is necessary to apply for a type D visa at the Polish consulate with jurisdiction over the place of residence.
- Visa requirements and documents that need to be submitted to obtain a visa to perform work are:
  - a valid travel document (passport);
  - a completed and signed visa application;
  - a photo of the foreigner;
  - confirmation of payment of the fee;
  - travel medical insurance with a coverage amount of not less than EUR 30,000;
  - work permit;
  - document confirming sufficient financial resources to cover the cost of living for the entire period of the planned stay and the cost of returning to the country of origin;
  - document allowing to assess that the applicant will leave the territory of the Republic of Poland before the expiry of the visa validity period.
- A type D national visa also entitles the holder to move within the territory of other Schengen countries for **up to 90 days within a 180-day period of visa validity.**

7. HIRING CITIZENS OF UKRAINE UNDER PROVISIONS OF THE SPECIAL ACT

- Due to the ongoing war in Ukraine, Poland passed the Act of 12 March 2022 on Assistance to Citizens of Ukraine in connection with the Armed Conflict on the Territory of that Country (the "**Special Act**"). The provisions of the Special Act provide Ukrainian citizens with wide access to the labour market in Poland and simplify the procedure of legalization of their stay and work on the territory of Poland.
- It is possible to legally employ a Ukrainian citizen or the spouse of a Ukrainian citizen during the period of their legal stay in Poland. Under the Special Act, citizens of Ukraine who came legally to Poland from 24 February 2022, from the territory of Ukraine and declare their intention to stay in Poland, may **work legally in Poland** until 4 March 2024.
- Citizens of Ukraine who arrived on the territory of Poland from the territory of Ukraine from 24 February 2022, **enjoy temporary protection.** Their residence is legal for 18 months - starting from 24 February 2022 (regardless of the date of actual border crossing) – until 4 March 2024.
- Please note that the provisions of the Special Act extend the residence permits of Ukrainian citizens by law. If the last day of legal residence of a citizen of Ukraine in Poland on the basis of a national visa or temporary residence permit falls from 24 February 2022, the period of validity of these residence titles is extended until **4 March 2024.**
- Moreover, if the last day of legal residence of a citizen of Ukraine in Poland on the basis of a Schengen visa issued or another residence permit issued by an authority of that country, authorizing travel within the territory of other Schengen area countries, or within the framework of visa-free travel falls within the period from 24 February 2022, and the stay began before that date, such stay is considered legal for a period of 18 months, i.e. until **4 March 2024.**

- In order to legalize the work of a citizen of Ukraine, the employer is obliged to **notify the district labour office within 14 days** from the day the foreigner starts working. The notification should be made electronically, through the website praca.gov.pl. No additional permits are required, notification is a sufficient way to legalize the work of a Ukrainian citizen.
- A Ukrainian citizen can be employed on the basis of an **employment agreement** or a **contract of mandate.**
- An employee from Ukraine employed on the basis of an application to a district labour office may freely change employers. Until 4 March 2024 they can work on the basis of general access to the labour market for citizens of Ukraine. It is worth noting that the spouse of a Ukrainian citizen who does not hold Ukrainian citizenship, as long as they came to Poland from Ukraine due to the war, is legally in Poland and is therefore entitled to legal employment on the basis of a notification submitted by the employer.

WORKS COUNCIL

1. OVERVIEW

- Please note that the works council should agree with the employer on the rules and procedure for the provision of information and consultation, the procedure for the settlement of disputes, and the rules for the payment of costs related to the election and activities of the works council, including the costs related to the performance of necessary expertise.

2. RIGHT TO INFORMATION

- The employer should provide the works council with information on:
  - the employer's business and economic situation and anticipated changes in this respect;
  - the status, structure and anticipated changes in employment and measures to maintain the level of employment;
  - activities that may cause significant changes in the organisation of work or the basis of employment.

  - information on anticipated changes or intended measures should be provided upon written request of the works council.
- The employer should provide the above mentioned information in such time, form and scope as to enable the works council to familiarise itself with the matter and to analyse the information and, if necessary, prepare for consultation. On the matters referred to in point 2.1 above, the works council may present an opinion (the approval of which will require the consent of the majority of the members of the works council. In addition, any member of the works council may present a separate opinion, which should be submitted to the employer.

3. CONDUCTING CONSULTATIONS

- The employer should consult with the works council on matters concerning the employer's business and economic situation and anticipated changes in this respect, as well as the status, structure and anticipated changes in employment and measures to maintain the level of employment.
- Such consultations should be conducted:
  - at a time, in a form and to an extent that enables the employer to take action on the matters covered by the consultation;
  - depending on the subject of the discussion - at the appropriate managerial level;
  - on the basis of the information provided by the employer and the opinion provided by the workers' council and the separate opinion of a member of the works council;
  - in such a way as to enable the works council to meet with the employer in order to obtain its position, together with a statement of reasons relating to its opinion;
  - to enable reaching an agreement between the works council and the employer.
- Please keep in mind, that under Polish law such consultations should be conducted in good faith and with respect for the interests of the parties.

4. PROTECTION OF THE EMPLOYMENT RELATIONSHIP OF A MEMBER OF THE WORKS COUNCIL

- Please note that without the consent of the works council the employer may not:
  - terminate the employment relationship with its member during the period of his/her membership;
  - unilaterally change the terms and conditions of employment or pay to the disadvantage of a member during the period of his/her membership (except where this is permitted by other laws).
- Moreover, an employee who is a member of the works council is entitled to time off from work, keeping his/her right to remuneration, for the time necessary to participate in the works of the works council, which cannot be performed outside working hours (in case he/she does not enjoy time off for any other reason).

TRADE UNIONS

1. OVERVIEW

- Under Polish employment law, there are many situations in which the employer must include trade unions in the decision-making process. Please find below a summary regarding the most common and important issues in this regard.

2. TERMINATION OF EMPLOYMENT AGREEMENTS

- When the employer wants to terminate the employment agreement concluded for an indefinite or definite period, it should keep in mind that the employee can be represented by the trade union organisation. The same applies to the intention to change working or pay conditions of such employee. This means that the employer is obliged to ask the organisation present at the workplace whether the employee is represented by it.
- Otherwise, the termination of the employment contract will be declared illegal by the court, even if the employee has committed a serious breach of fundamental labour obligations).

3. SPECIAL PROTECTION FOR TRADE UNION MEMBERS AND PROHIBITION OF DISCRIMINATION DUE TO TRADE UNION MEMBERSHIP

- According to the Labour Code, any discrimination (direct or indirect) due to, inter alia, trade union membership is prohibited. Otherwise, the employee can file a lawsuit in the labour court for compensation.
- Moreover, a trade union activist is protected in order to guarantee his/her independence in the performance of functions. The protection of the continuity of a employment relationship of trade union activists is granted by law and is not conditional on the employer being informed of its scope. However, trade union activities must not be an excuse to unjustifiably privilege an employee in areas outside the exercise of functions - a trade union member has an equal obligation to duly perform their duties as an employee.
- One of the forms of protection for trade union activists are restrictions on terminating their employment agreement and unilaterally changing working or pay conditions against the employee. Such prohibition covers not only changes that could be made to the employment agreement by way of a change notice, but also other changes to the disadvantage for the employee made unilaterally by the employer. Please note that an employer without the consent of the Management Board of a company trade union organisation may not:
    - terminate the legal relationship with its member, indicated by a resolution of the Management Board, or with another person performing paid work who is a member of the given company trade union organisation, authorised to represent this organisation towards the employer or a body or person performing activities on behalf of the employer in matters of labour law;
    - unilaterally change the conditions of work or remuneration towards the disadvantage of a person performing paid work referred to above,

    – except in the case of the declaration of bankruptcy or liquidation of the employer, and also if this is allowed by other provisions.

4. COMPANY TRADE UNION ORGANISATION

- The rights of a company trade union organisation apply to an organisation with at least 10 members who are:
    - employees of the employer covered by the organisation, or
    - persons other than employees who have been gainfully employed for at least 6 months by an employer covered by the organisation.
- In addition, the company trade union organisation is obliged to submit to the employer every 6 months (as at 30 June and 31 December) – by the 10th day of the month following this period – information on the number of members.
- An organisation that was established within the 6-month reporting period should submit to the employer the first information on the number of members (as at the date of submission of the information) within 2 months from the date establishing the trade union organisation. If the information obligation is not fulfilled, the organisation will not be entitled to the rights of a company trade union organisation until it has fulfilled these obligations.
- There can be one or more company-based trade union organisations at a workplace. If a trade union organisation acts for two or more employers, then it is an inter-company trade union organisation.
- It should be noted that if the company trade union organisation is not a company organisation (in Polish *organizacja zakładowa*), the employer is not obliged to cooperate with such an organisation.

5. INTER-COMPANY ORGANISATION

- An inter-company organisation is an organisation which:
    - operates in at least two employers (each of at least 2 employers employs at least 1 member of such an organisation);
    - has a total of at least 10 members who are employees, contractors or civil servants in all the employers covered by the organisation.
- Such an organisation has rights like a company trade union, i.e. it may:
    - have a say in individual employment matters;
    - participate in negotiations and conclude agreements on the transfer of the workplace or part of it to a new employer;
    - agree on the rules for the granting and use of the company's social benefits fund;
    - agree on award and bonus regulations;
    - participate in negotiations and conclude collective labour agreements and other collective agreements).

6. EMPLOYER OBLIGATIONS

- The employer is obliged to cooperate with the company trade union organisation in individual matters of the employment relationship. Most often, this means that the employer has to obtain the opinion (or consent) of the union to terminate the employment relationship with a particular employee represented by the union organisation.

INVESTMENT AND CONSTRUCTION PROCESS

05.

PURCHASE OF LAND AND BUILDINGS WITH BREAKDOWN BY TYPE OF SELLER:

PRIVATE PERSONS, LEGAL ENTITIES AND PUBLIC ENTITIES (E.G. BIDDINGS, AUCTIONS) AND PURCHASE OF REAL ESTATE BY FOREIGNERS

1. TITLES TO REAL ESTATE

In Poland, investors acquire mainly two titles to real estate:

- **Ownership right,**
- **Perpetual usufruct right ("RPU")** – this right, sometimes referred to as „quasi-real estate", is established on land owned by the State Treasury or local government units. Perpetual usufruct was introduced in 1961 and is aimed at addressing the public's need for land intended for construction, while at the same time protecting the interests of the State from the loss of its property. Perpetual usufructuaries (holders of RPU) have almost all rights that are vested in landowners. They are entitled to own, sell, encumber (including mortgages and easements), develop (including obtaining all decisions necessary in the investment process) and benefit from land in RPU.
  Perpetual usufruct may be a subject of commercial transactions and can therefore be sold and acquired.

Experience shows that the purchase prices for RPUs are comparable to those for full ownership. Perpetual usufructuaries do not need the consent from the owners of the real estate to undertake any activities related to exercising their right, except for legal division of the real estate. However, perpetual usufructuaries are obliged to pay an annual fee to real estate owners.

The manner in which the perpetual usufructuary may use State Treasury land or land belonging to local authorities or their associations should be specified in an agreement. The percentage rates of annual fees for perpetual usufruct depend on the purpose for which the land should be used.

The Act of 21 August 1997 on Real Estate Management (uniform text Journal of Laws of 2023, item 344) provides for a procedure for changing the purpose of the perpetual usufruct in the event that after the transfer of land for perpetual usufruct, there is a permanent change in the use of the real estate, resulting in a change in the purpose of perpetual usufruct. This procedure is carried out at the request of the competent authority (i.e. the starost (in Polish: starosta) or the executive body of a local government unit (in Polish: organ wykonawczy jednostki samorządu terytorialnego) – mayor or city president) or the perpetual usufructuary. The perpetual usufructuary may also apply for a change in the purpose of the perpetual usufruct, if the proposed change is consistent:

- with the purpose of the real estate established in the applicable local zoning plan; or
- with an occupancy permit; or
- with a notification of construction or reconstruction, against which the architectural-construction administration body has not raised objections; or
- with a resolution on determining the location of a housing investment or an accompanying investment adopted on the basis of the Act of 5 July 2018 on Facilitations in the Preparation and Implementation of Residential Investments and Accompanying Investments (uniform text Journal of Laws of 2021, item 1538); or
- with a zoning decision.

Three basic differences can be pointed out between ownership and the RPU:

Ownership	RPU
Not limited in time	Established for a specified period – usually for 99 years (however, in certain circumstances this period may be shorter, but not less than 40 years), It is possible for perpetual usufructuaries to apply for an extension of the RPU period by another 40-99 years
No additional civil fees related to exercising the ownership right	Perpetual usufructuaries are obliged to pay an annual fee to real estate owners – between 0.3 and 3% of the land value (buildings are not taken into consideration in the fee calculation)
Buildings located on given land cannot constitute a separate real estate from the land as they are an integral part of it	Perpetual usufructuaries of land own the buildings on that land in RPU and ownership of such buildings cannot be sold separately from the land; when the RPU expires, the owner of the land in question must reimburse the perpetual usufructuary the amount of the market value of the building existing at the date of expiry of the RPU

***

As of 31 August 2023, the amendments regarding the possibility for perpetual usufructuaries to acquire real estate used for purposes other than residential, came into force (the **"Amendment"**). The Amendment is intended to be the next stage in the progressive liquidation of the right of perpetual usufruct in the Polish legal system (the first stage was the liquidation of perpetual usufruct of land developed for residential purposes). This is because the previous legislation generally did not give perpetual usufructuaries, who were often entrepreneurs, the legal tools to effectively acquire ownership of land real estate in a situation where its owner did not intend to sell it.

According to the Amendment, the acquisition of landed real estate is not effected by virtue of the law (as in the case of residential land), but on the basis of an agreement with the owner of the real estate, when the owner consents to the sale it (the **"General Provisions"**), or regardless of his consent, when the perpetual usufructuary claims for the sale of the real estate within 12 months starting from 31 August 2023 (the **"Episodic Provisions"**).

General Provisions:

The sale of the landed real estate to its perpetual usufructuary may not take place before the expiration of 10 years from the date of the conclusion of the agreement on handing over the land real estate for perpetual usufruct (this also refers to the acquisition of a real estate by a perpetual usufructuary on the basis of Episodic Provisions, described below).

The sale of perpetual usufruct of real estate of the State Treasury, is carried out by the starost (in Polish: starosta), but requires the consent of the governor (in Polish: wojewoda) expressed in the form of an order (in Polish: zarządzenie).

The governor – with regard to properties owned by the State Treasury or the relevant council (in Polish: rada) or assembly (in Polish: sejmik) – with respect to real estate owned by local government units (in Polish: jednostki samorządu terytorialnego) determine, respectively, by means of order or resolution (in Polish: uchwała), the rules for allocating for sale landed real estate handed over in perpetual usufruct and detailed guidelines for the sale of landed real estate to its perpetual users, considering in particular: (i) the needs of the local community and the public interest, including the need to provide land reserves for public purposes and for housing; (ii) spatial order; (iii) economic rationality; (iv) the state of implementation of the provisions of the agreement on handing over land for perpetual usufruct, including the purpose for which the real estate was handed over for perpetual usufruct; (v) the remaining period of time until the expiration of the right of perpetual usufruct as a result of the expiration of the period established in the agreement for handing over the land real estate for perpetual usufruct; (vi) the investment potential of the land real estate for the realization of public purposes, housing or public utility purposes.

Sale rules for the General Provisions:

Depending on the use of the land real estate, the following rules of sale can be distinguished:

(i)land real estate not used for business activities:

- the price of land determined as twenty multiples of the amount constituting the quotient of the existing percentage rate of the annual fee for perpetual usufruct and the value of the real estate determined as of the date of conclusion of the sale agreement;
- possibility to grant a discount (in Polish: bonifikata) to perpetual usufructuaries from the land sale price under the existing rules.

(ii) land real estate used for business activities:

- price of land determined at an amount not lower than twenty multiples of the amount constituting the quotient of the existing percentage rate of the annual fee and the value of the land determined as of the date of conclusion of the sale agreement, but not higher than the value of the land determined as of the date of conclusion of the sale agreement;
- no discount on the sale price of land used for business activities;
- obligation to apply the provisions on a public aid (de minimis limits) – in the case of land real estate used for a business activities, that is sold to its perpetual usufructuary, the date of public aid is considered the date of conclusion of the sale agreement. The value of a public aid corresponds to the difference between the value of the landed real estate and the price of this property. If the value of public aid exceeds the permissible limit of de minimis aid, the authority will determine the amount of additional payment. The additional payment may be paid:

– in full within 14 days from the date of acquisition of land real estate;
– in annual installments payable over a period of no more than 20 years, paid from the year following the year of acquisition of the land real estate;
– in the outstanding amount, at the request of the purchaser of the landed real estate, made at any time during the period for which the additional payment was made in installments.

In addition, it is possible to pay the purchase price in installments (the price for the real estate on sale may be divided into installments, for a period not exceeding 10 years). The claim of the State Treasury or the local government unit against the purchaser on this account is subject to security, in particular by establishing a mortgage on the real estate.

The first installment shall be payable no later than on the date of conclusion of the agreement transferring ownership of the real estate, and the subsequent installments, together with interest, shall be payable on the dates set by the parties in the agreement. The unpaid part of the price, divided into installments, is subject to interest at an interest rate equal to the bill discount rate applied by the National Bank of Poland (in Polish: Narodowy Bank Polski). The governor in relation to a property owned by the State Treasury and council or assembly in relation to real estate constituting the subject of ownership of the municipality, district or voivodeship, may agree to apply an interest rate other than the one specified above. In the case of a land real estate used for business activities, which is sold to its perpetual usufructuary, the unpaid part of the price, divided into installments, is subject to interest at the reference rate determined in accordance with the Communication from the Commission on the revision of the method for setting the reference and discount rates (OJ EU C 14, 19.01.2008, p. 6).

Episodic Provisions:

According to the Amendment, a perpetual usufructuary of a landed real estate may, within 12 months – starting from 31 August 2023 – apply for the sale of this real estate in its favor.

This regulation imposes an obligation on the owner to sell the real estate in the event of such a claim by the perpetual usufructuary, and specifies separate rules dedicated to this procedure for the sale of, among other things, the subject of the sale, price determination and discounts. After the expiration of the aforementioned 12-month period, the sale of the landed real estate to the perpetual usufructuary may be carried out according to the General Provisions (described above). This claim can be exercised regardless of the use of the land.

The claim is subject to the following limitations, among others:

- it is not applicable if the perpetual usufruct agreement was concluded after 31 December 1997;
- is not applicable if the perpetual usufructuary has not fulfilled the obligation specified in the agreement to grant the land for perpetual usufruct;
- is not applicable with respect to a land located on the territory of seaports and harbors (in Polish: porty i przystanie morskie);
- is not applicable if a land is used for the operation of a family allotment garden (in Polish: rodzinny ogród działkowy);
- it is not applicable if proceedings are pending to terminate the agreement for the transfer of this real estate for perpetual usufruct;
- is not applicable with respect to an undeveloped land.

Sale rules for the Episodic Provisions:

With regard to:

(i)landed property owned by the State Treasury:

- in the case of a one-time payment – the price of the land will be 20 multiples of the amount representing the quotient of the existing percentage rate of the annual fee for perpetual usufruct and the value of the land real estate determined as of the date of conclusion of the sale agreement;
- in case of payment in installments – the price of land will be 25 multiples of the amount constituting the quotient of the current percentage rate of the annual fee for perpetual usufruct and the value of the land real estate determined as of the date of conclusion of the sale agreement.

(ii) landed real estate owned by a local government unit:

- the price for the land will be set at an amount not lower than 20 multiples of the amount constituting the quotient of the existing percentage rate of the annual fee for perpetual usufruct and the value of the land real estate determined as of the date of conclusion of the sale agreement, but not higher than the value of the land real estate;
- the relevant council or assembly, within 4 months starting from 31 August 2023, shall determine by resolution the detailed conditions of sale or give the executive body the authority to determine these conditions individually;
- after ineffective expiration of the period (indicated above), the payment for the land will be determined accordingly by the provision regulating the sale of land owned by the State Treasury.

In the case of the realization of a claim on real estate used for business activities, the public aid rules applicable to the acquisition of land by a perpetual usufructuary under the General Principles (as mentioned above) will apply. Thus, the value of public aid will be the difference between the amount corresponding to the value of the land and the price to be paid by the purchaser. Also, if the de minimis limits are exceeded, the additional payment regulations for the acquisition of land by the perpetual usufructuary on General Principles will apply.

With respect to discounts, it will be obligatory upon request to provide a discount of 90% of the price of land owned by the State Treasury, whose perpetual usufructuaries are individuals belonging to a particularly vulnerable social group, such as disabled persons.

With respect to real estate owned by local government units, the decision to provide the right to a discount and to determine the conditions for granting discounts was left by the legislator to the discretion of the competent councils and assemblies.

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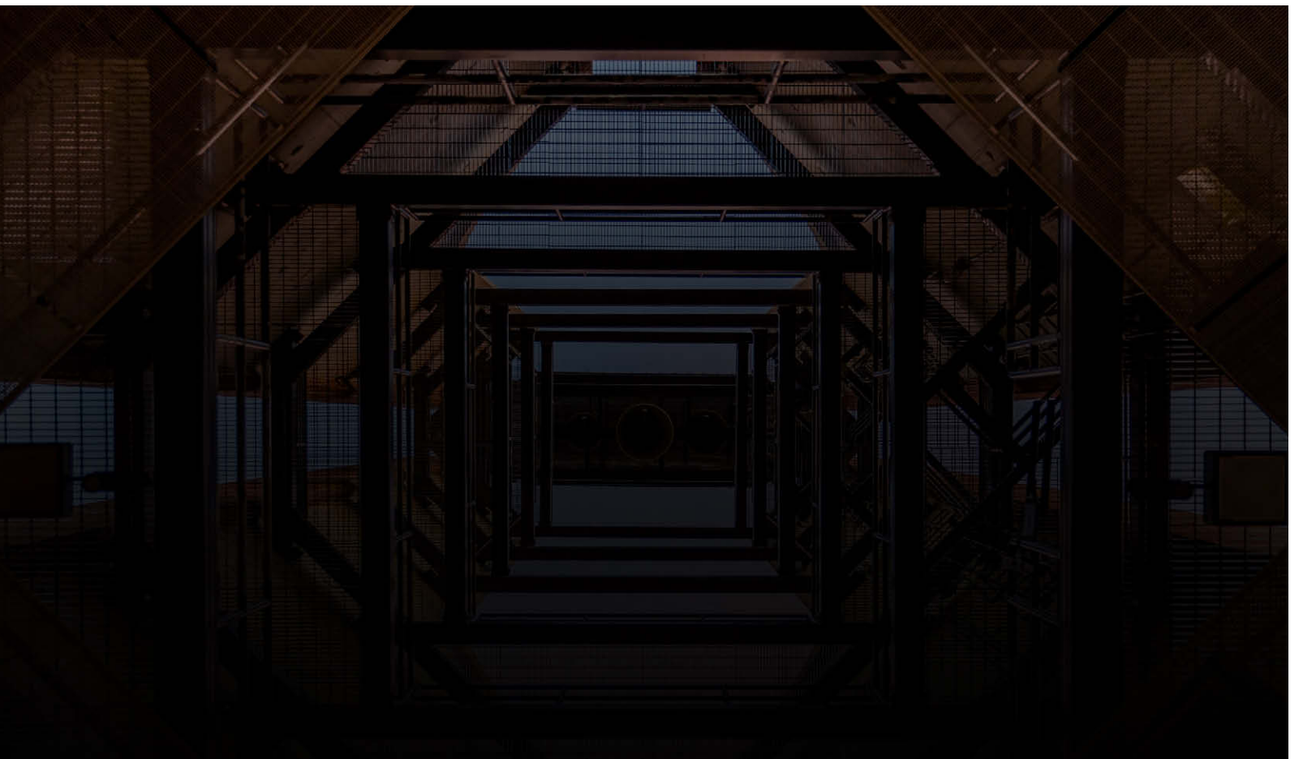
2. TYPES OF REAL ESTATE TRANSACTIONS

There are two main types of real estate acquisition transactions on the Polish market.

2.1 ASSET DEAL

In asset deals, buyers directly acquire the legal title to real estate. This type of transaction may include:

- either acquisition of the real estate itself – which covers, if applicable, other elements related to the real estate, e.g. construction guarantees or copyrights for construction projects. In such transaction, the buyer, as a rule, does not directly take over the historical risks and other legal issues related to the seller, e.g. tax risks, however after the conclusion of the contract the buyer may be affected by some risks related to the real estate itself; or
- the acquisition of the seller's enterprise with the real estate or organised part of the enterprise – in case of such transaction, the buyer, in addition to the real estate itself, also acquires other rights, claims and receivables related to the functioning of the real estate. This type of transaction covers a broader range of elements than when only the real estate is acquired. Moreover, in such case, the buyer is, in principle, jointly and severally liable with the seller for the seller's civil law liabilities relating to the enterprise to be divested, although it is possible to exclude tax liability by obtaining appropriate certificates.



In asset deals, buyers are protected by the public warranty of land and mortgage register, pursuant to which if the seller is disclosed in the land and mortgage register as the holder of the legal title of the real estate and the buyer acts in a good faith, the buyer acquires the legal title to that real estate even if the disclosed entity does not hold that title. The public warranty of land and mortgage registers does not, however, apply against: (i) rights encumbering the property by operation of law, irrespective of the entry, (ii) life estate rights, (iii) easements established by decision of a competent state administration authority, (iv) easements of way or established in connection with the crossing of a border when constructing a building or other equipment, and (v) easements of transmission.

Also, the public warranty of land and mortgage registers does not protect dispositions free of charge or made in favor of a buyer acting in bad faith, and the public warranty of land and mortgage registers is also excluded by a reference to an application or a warning regarding the inconsistency of the legal status disclosed in the land and mortgage register with the actual legal status.

The contract for the acquisition of the real estate or the seller's undertaking covering the real estate is valid if it was concluded in notarial deed form. The ownership title passes to the buyer upon conclusion of the agreement transferring the ownership, whereas the title to the RPU passes to the buyer upon the entry of change regarding the title holder to the land and mortgage register.

In general, contracts related to real estate (such as contracts with service and utility providers) are not automatically transferred to the buyer, but may be assigned by the agreement to the parties to such contracts. However, there is one exception to the above rule. Lease agreements are transferred to the buyer by virtue of law together with the transfer of legal title to the real estate.

In principle, administrative decisions concerning real estate, if required by the buyer after, must be transferred to the buyer separately, or the buyer must apply for such decisions in its favor after the real estate is acquired. The authorities issuing decisions, such as zoning decisions or building permits, are obliged to transfer those decisions to the buyer if the conditions for their transfer are met.

2.2 SHARE DEAL

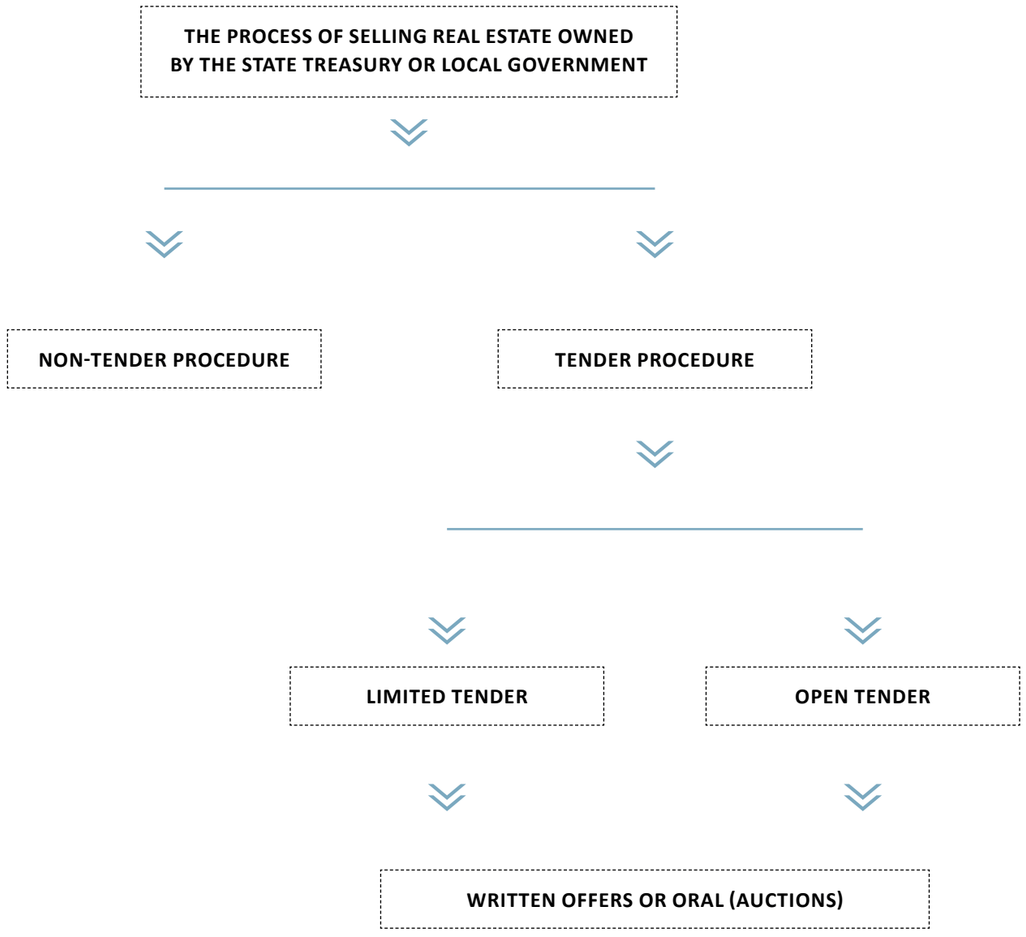
In share deals, the buyer indirectly acquires the legal title to real estate, through the acquisition of shares in a company that is the land's owner or perpetual usufructuary of the real estate. In such case, all historical risks and other legal issues concerning the acquired company, including tax issues are transferred to the buyer.

As the title to the real estate is not directly the subject of the transaction, the abovementioned warranty of the public land and mortgage register does not apply. The public warranty of land and mortgage registers is relevant only for the informative determination whether the company whose shares are being purchased is the owner or the perpetual usufructuary of the real estate.

The title to the shares is transferred to the buyer upon conclusion of the agreement, unless the parties agree otherwise. Moreover, the agreement for the acquisition of shares does not have to be concluded in notarial deed form– however, the signatures of the parties to the agreement must be certified by a notary.

The company, in which shares are acquired, remains the party to all concluded agreements, such as lease contracts or credit agreements, remaining in that company. However, some agreements, e.g. loan agreements, may provide for the need to obtain consent/send a notice of intent to carry out the transaction.

2.3 TENDERS FOR THE SALE OF REAL ESTATE



Real estate being the property of the State Treasury or the property of local government units (or the property of unions of such units) is sold and handed over for perpetual usufruct by way of a tender or, in cases provided for by the Act[46], without a tender. The conditions for the disposal of real estate by tender are announced in the tender notice. The conditions for the disposal of real estate without tender are determined in negotiations conducted with the purchaser. The protocol of the conducted tender and the protocol of negotiations in the case of disposal by non-tender procedure constitute the basis for concluding a contract (in notarial deed form).

As a rule, state and local government's real estate is sold by tender. Non-tendered sales are allowed only in cases provided for in the Act, such as the sale of real estate for the benefit of a person with the right of first refusal to acquire it.

[46] Act of 21 August 1997 on Real Estate Management (uniform text Journal of Laws of 2023, item 344,) (in Polish: ustawa z dnia 21 sierpnia 1997 r. o gospodarce nieruchomościami (t.j. Dz. U. z 2023 r. poz. 344)).

The tender should be conducted in the following tender forms:

The purpose of an oral tender is to obtain the highest price, while a written tender is to select the most advantageous offer. A limited tender is organised if the tender conditions can only be met by a limited number of persons. The use of a specific form of tender is decided by the tender organiser.

The tender is terminated with a negative result if no one has entered an oral tender or no participant has offered a bid above the starting price, or if in a written tender no bid has been submitted, or no participant has offered a price higher than the starting price, or if the tender committee has stated that no bid satisfies the conditions of the tender.

A condition for entering the tender is the payment of a deposit, no later than three days before the opening of the tender. The deposit is between 5% and 20% of the starting price of the real estate. If the entity determined as the buyer of the real estate does not enter into the agreement without justification, the deposit paid is non-refundable.

When selling real estate by tender, the starting price for the first tender is set at an amount not lower than the value of the real estate. If the first tender results in a negative outcome, a second tender is held within a period of not less than 30 days but not more than 6 months, counting from the date of its closure, in which the competent authority may reduce the starting price of the real estate determined at the announcement of the first tender, but by not less than 50%. If the second tender is unsuccessful, the competent authority, within a period of between 30 days and 6 months, counting from the date of its closure, will determine the price of the real estate by negotiations with the purchaser in an amount of at least 40% of the real estate value. The price of real estate sold in a non-tender procedure may be spread into instalments, for a period not exceeding 10 years. In such a case, the first instalment should be paid no later than by the date of conclusion of an agreement transferring the ownership of the real estate, and subsequent instalments should be paid on dates agreed by the parties in the agreement. The price of the real estate sold by way of a tender is subject to payment no later than by the date of conclusion of the agreement transferring the ownership of the real estate.

In the case of the sale of real estate located in a special economic zone, the starost, performing the task of government administration, with respect to real estate owned by the State Treasury, and the executive body of a municipality, poviat and voivodeship with respect to real estate owned by a municipality, poviat and voivodeship, respectively, may commission the administrator of a special economic zone, by way of an agreement, to prepare the real estate for sale and to organise and conduct a tender for the sale of this real estate[47].

The sale of real estate from the Agricultural Property Stock of the State Treasury is conducted in accordance with the principles set forth in Chapter 6 of the Act of 19 October 1991 on the Management of Agricultural Property of the State Treasury[48].

It should be noted that within 10 years from the date of entry into force of the Act of 14 April 2016 on Suspension of the Sale of Real Estate of the Agricultural Property Stock of the State Treasury and Amendments to certain Acts (uniform text Journal of Laws of 2022, item 507), the sale of agricultural real estate or parts thereof forming part of the Agricultural Property Stock of the State Treasury has been suspended, with the exception of:

1. real estate and parts thereof allocated in:
   - a zoning plan, or
   - a study on the conditions and directions for spatial development in the municipality, or
   - the final planning and zoning decision,
   - for non-agricultural purposes, in particular technology parks, industrial parks, business and logistics centres, warehouses, transport investments, housing, sports and leisure facilities, or
2. real estate located within special economic zones, or
3. houses, dwellings, outbuildings and garages together with the necessary land and kitchen gardens, or
4. agricultural properties of up to 2 ha.

[47] Act of 20 October 1994 on Special Economic Zones (uniform text Journal of Laws of 2023, item 1604 (in Polish: Ustawa z dnia 20 października 1994 r. o specjalnych strefach ekonomicznych (t.j. Dz. U. z 2023 r. poz. 1604)).

[48] Act of 19 October 1991 on the management of agricultural properties of the State Treasury (uniform text Journal of Laws of 2022, item 2329) (in Polish: ustawa z dnia 19 października 1991 r. o gospodarowaniu nieruchomościami rolnymi Skarbu Państwa (t.j. Dz. U. z 2022 r. poz. 2329).

In cases justified by socio-economic considerations, the Minister competent for rural development, at the request of the General Director of the National Agricultural Support Centre, may express consent to the sale of real estate or parts thereof other than those mentioned above.

The sale of an agricultural property by the National Agricultural Support Centre can take place, in two modes of acquisition:

- under a non-tender procedure – *inter alia* to entitled persons who submit a declaration of their intention to exercise their right of first refusal to purchase on the terms and conditions specified in a notification from the seller to the National Agricultural Support Centre, or
- by public tender – real estate that is not to be leased, or for which the non-tender procedure is not applicable, is sold by public oral or written tender. The primary method of sale is by oral tender, while a written tender is used in cases justified by socio-economic considerations.

The sale of agricultural real estate of the State is subjected to a mandatory restricted tender procedure (in which only entities indicated in the Act – farmers – may participate). Announcement of an open tender for the sale of agricultural real estate of the State will only be possible if the previously organised restricted tender has proved unsuccessful.

The table below shows how long it may take to acquire land from local government units, special economic zones and the National Center for Agricultural Support (in Polish: *Krajowy Ośrodek Wsparcia Rolnictwa*) through tender, according to the relevant authorities. However, it should be noted that the time frames indicated below are not conclusive. The duration of the purchase of a property will vary depending on several factors, including the type of property, the duration of negotiations, and the documents needed.

	Local government units	Special economic zones	National Center for Agricultural Support
Time frames	Around 4 to 18 months Usually open oral tenders	Around 4 months usually, open oral tenders	Not less than 6 months, generally around 1-1,5 years Usually oral tenders

2.4 OTHER TYPES OF TRANSACTIONS

Notwithstanding the above, it is also possible to acquire real estate by bidding or auction, including through an action organised by an enforcement officer (in Polish: *komornik*).

In Poland, the acquisition of real estate at biddings is possible. The highest bidder is the winner, however it is important to note that the transfer of title to the real estate in such a case does not take place immediately after the bidding. At the conclusion of the bidding, only a preliminary agreement regarding the real estate is concluded. The transfer of title to the real estate does not take place until the conclusion of the final agreement in notarial deed form.

The acquisition of real estate in a public auction organised by an enforcement officer is possible if the real estate is the subject of enforcement proceedings. In such case, the starting price of the real estate at the enforcement officer's auction, is 3/4 of the sum of the assessment of the real estate. If the first auction does not result in a sale, the enforcement officer appoints a second auction. The starting price is then only 2/3 of the sum of the assessment of the real estate. The transfer of ownership of real estate at an enforcement officer's auction takes place on the basis of a final court order. Enforcement officer's auctions of real estate can also be conducted electronically. Electronic real estate auctions guarantee a higher level of security for all bidders. Persons interested in participating in electronic auctions of real estate can find information about ongoing and planned auctions and the real estate to be auctioned on the dedicated website: https://elicytacje.komornik.pl.

It should be borne in mind that once a bid's acceptance (in Polish: *przybicie*) becomes final and the purchaser fulfils the conditions of the auction, the court issues an order on the granting of the ownership title. A legally valid decision on acceptance of ownership transfers ownership to the buyer and is the title to disclose the ownership right in favour of the buyer in the cadastre of the real estate and through an entry in the land and mortgage register or by depositing the document in the register of documents. The transfer of ownership may thus often prove time-consuming.

Depending on whether only land or land with a building is being acquired, attention needs to be paid to different aspects of the transaction. In the case of acquiring land with a building, the transfer of the copyrights to the development project or guarantees will be an important issue. However, if only land is being purchased, an assessment as to whether it will be possible to build the planned investment on the purchased land should be performed.

3. RESTRICTIONS ON REAL ESTATE ACQUISITIONS

Irrespective of the type of transaction, Polish law imposes certain restrictions on the acquisition of real estate in Poland. The abovementioned restrictions mainly concern the acquisition of real estate by foreigners, the acquisition of agricultural real estate, acquisition of forest real estate and the pre-emptive right, which are discussed below.

3.1 ACQUISITION OF REAL ESTATE BY FOREIGNERS

Acquisition of real estate by foreigners – under Polish law[49], acquisition of real estate by a foreign investor whose registered office is located outside the EEA or Switzerland requires the consent (issued in the form of an administrative decision) of the Minister of Internal Affairs and Administration. Acquisition of real estate without this consent is not valid. The same rule applies to the acquisition of shares in companies that are owners or perpetual usufructuaries of real estate in Poland. However, it should be noted that the Act on Acquisition of Real Estate by Foreigners sets out the situations when the abovementioned consent is not required. The consent is not required, inter alia, in case of the acquisition of a separate residential unit (in Polish: *samodzielny lokal mieszkaniowy*) or the acquisition of undeveloped real estate by an entity having its registered office in Poland, controlled directly or indirectly by natural persons who do not hold Polish citizenship or by a company having its registered office abroad, for its statutory purposes (provided that the total area of the real estate acquired throughout the country does not exceed 0.4 ha in city areas).

A foreigner intending to acquire real estate may apply for a promise to issue a permit, known as a „promise". The promise is valid for one year from the date of issue. During the period of validity of the promise, the issuance of a consent may not be denied unless the facts relevant to the outcome of the case have changed. The application for consent should be submitted to the Ministry of Internal Affairs and Administration. The application should be accompanied, in particular, by documents specifying the legal status of the foreigner, and documents relating to the real estate. The consent is issued if no objection is raised by the Minister of Defense, and in the case of agricultural real estate, if no objection is also raised by the Minister responsible for rural development. Moreover, the authority may request opinions from other state institutions or professional organizations regarding the application. The authority may specify special conditions in the consent. If the foreigner fulfills them, he will be able to purchase the real estate. The consent is valid for two years from the date of issue. The fee for issuing a consent is PLN 1,570.00, while the fee for issuing a promise is PLN 98.00.

Key information on acquisition of real estate by foreigners:

DEFINITION OF FOREIGNER	1. A natural person who does not have Polish citizenship; 2. A legal person, based abroad; 3. An unincorporated company of the persons listed above, based abroad, established in accordance with the legislation of foreign countries; 4. A legal person and an unincorporated commercial company having its seat in the territory of Poland, controlled directly or indirectly by the persons or companies listed above.
CONDITIONS FOR OBTAINING A CONSENT	Consent is issued if: 1. The acquisition of real estate by a foreigner will not cause a threat to defence, state security or public order, and is not opposed by considerations of social policy and public health. 2. The foreigner demonstrates that there are circumstances confirming his/her ties to the Republic of Poland (e.g., performance of business activities in the territory of the Republic of Poland).

[49] Act of 24 March 1920 on the Acquisition of Real Estate by Foreigners (uniform text Journal of Laws of 2017, item 2278) (in Polish: *ustawa z dnia 24 marca 1920 r. o nabywaniu nieruchomości przez cudzoziemców (t.j. Dz. U. z 2017 r. poz. 2278)).*

3. The area of the real estate acquired by a foreign entrepreneur for the purpose of business should be justified by the actual needs arising from the nature of the business activity carried out.
4. The authority may specify in the consent special conditions for a foreigner intending to acquire the real estate, the fulfilment of which will condition the possibility of acquiring the real estate (these conditions relate, in particular, to the applicant's compliance with its obligations under the regulations of the Commercial Companies Code).
5. Acquisition of agricultural real estate by foreigners is carried out in addition, in accordance with the provisions of the Act of 11 April 2003 on the Formation of the Agricultural System.

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In practice, the administrative procedure for obtaining a consent for the acquisition of real estate, due to the extensive correspondence, the need to obtain the opinions of other authorities and institutions can take up to three or four months, and in some cases even longer.

NO REQUIREMENT FOR A CONSENT

It is not required to obtain a consent i.a.:

1. By foreigners who are citizens or entrepreneurs of countries- parties to the Agreement on the European Economic Area or the Swiss Confederation;
2. For the transformation of a commercial company;
3. For the acquisition of undeveloped real estate by an entity having its registered office in Poland, controlled directly or indirectly by natural persons who do not hold Polish citizenship or by a company having its registered office abroad, for its statutory purposes (provided that the total area of the real estate acquired throughout the country does not exceed 0.4 ha in city areas).

REQUIRED DOCUMENTS FOR THE APPLICATION

The Ordinance[50] specifies the types of documents that a foreigner applying for a consent is required to attach to the consent application. These documents relate to the applicant's legal status and real estate.
The required documents in particular are:

1. Application for a permit for the acquisition of real estate by a foreigner;
2. Document confirming identity;
3. A copy from the Register of Entrepreneurs of the National Court Register;
4. A copy from a foreign register on entry in the Register of Entrepreneurs;
5. A copy from the land and mortgage register;
6. Extract from the land register;
7. Extract from the cadastral map;
8. Documents constituting the basis for changes in the designation of real estate;
9. An excerpt from the zoning plan, or a zoning decision;
10. Seller's statement expressing willingness to sell the real estate to a foreigner;
11. Documents confirming the foreigner's ties to the Republic of Poland
12. Certificate of not being in arrears in payment of Social Security contributions;
13. Confirmation of payment of stamp duty for issuance of the decision;
14. Documents confirming the source of funds for the purchase of real estate.

[50] Ordinance of the Minister of Internal Affairs of 20 June 2012 on detailed information and types of documents that a foreigner applying for a permit to acquire real estate is required to present (Journal of Laws, item 729) (in Polish: Rozporządzenie Ministra Spraw Wewnętrznych z dnia 20 czerwca 2012 r. w sprawie szczegółowych informacji oraz rodzajów dokumentów, jakie jest obowiązany przedstawić cudzoziemiec ubiegający się o wydanie zezwolenia na nabycie nieruchomości (Dz. U. poz. 729)).

3.2 ACQUISITION OF AGRICULTURAL REAL ESTATE

Acquisition of agricultural real estate – there are some important restrictions on the acquisition of agricultural real estate[51]. The general rule is that agricultural real estate may be purchased by individual farmers (understood as natural persons with appropriate qualifications). However, this principle does not apply to all agricultural real estates - for example, real estate which in the zoning plan is designated for purposes other than agricultural ones or with area less than 0.3 ha. It is also possible to acquire an agricultural real estate of less than 1 hectare without having status of individual farmers. However, in the case of the sale of agricultural real estate with an area more than 0.3 ha, the National Center for Agricultural Support (in Polish: *Krajowy Ośrodek Wsparcia Rolnictwa*), will be entitled to the pre-emptive right. In order to purchase agricultural real estate of more than 1 hectare without being an individual farmer, permission from the Director General of the National Center for Agricultural Support should be obtained. The purchaser of agricultural real estate with an area of more than 0.3 ha is obliged to operate the farm that includes the acquired agricultural real estate for a period of at least 5 years from the date of acquisition of the agricultural real estate. Also during the same period, the acquired property will not be allowed to be sold or given in possession to others. The National Center for Agricultural Support has the pre-emptive right to purchase shares and stocks in a capital company that owns or is the perpetual usufructuary of agricultural real estate with an area of at least 5 hectares or agricultural real estate with a total area of at least 5 hectares.

3.3 PRE-EMPTIVE RIGHT

Pre-emptive right – the right resulting from an act or from a contract to acquire an item with priority, at the same price and under the same terms as those proposed to potential buyers. The application of the pre-emptive right to a given transaction requires the parties to enter into a conditional sale agreement first and, only after the entitled party has not exercised its pre-emptive right to enter into an agreement, finally transferring the legal title to the real estate. In practice, the most important types of the right of pre-emption are:

- the statutory right of pre-emption of the municipality in the case of sale of real estate not developed for perpetual usufruct, as well as in the case of the sale of undeveloped real estate previously purchased by the seller from the State Treasury or municipality[52],
- the statutory right of pre-emption of the State Treasury represented by National Forests (in Polish: *Lasy Państwowe*) in case of sale of land: (i) designated as forest in the land and building register, (ii) intended for afforestation as specified in the zoning plan or the zoning decision, or (iii) covered by a simplified forest management plan[53]. It should be noted that if the acquisition of the above-mentioned land is the result of the conclusion of an agreement other than a contract of sale or a unilateral legal act, the National Forests representing the State Treasury may make a declaration on the acquisition of that land for the payment of a monetary equivalent,
- the statutory right of pre-emption of the State Treasury exercised by the starost in case of sale of real estate comprising land below inland standing water[54], or
- the above-mentioned statutory right of pre-emption of the National Agricultural Support Centre in relation to agricultural real estate or in relation to shares in companies holding legal title to agricultural real estate whose area is at least 5 hectares.

Therefore, prior to acquisition of a real estate, it should be confirmed in each case whether any authority has a pre-emptive right to the real estate in question.

4. LAND AND MORTGAGE REGISTER

The land and mortgage registers are kept by district courts in electronic form. They contain entries concerning changes in the legal status of real estate. The entries are made based on documents submitted to the abovementioned courts, as a rule, in paper form, which are collected in the so-called land and mortgage register files.

[51] Act of 11 April 2003 on the Formation of the Agricultural System (uniform text Journal of Laws of 2022, item 2569) (in Polish: ustawa z dnia 11 kwietnia 2003 r. o kształtowaniu ustroju rolnego (t.j. Dz. U. z 2022 r. poz. 2569)).
[52] Act of 21 August 1997 on Real Estate Management (uniform text Journal of Laws of 2023, item 344) (in Polish: ustawa z dnia 21 sierpnia 1997 r. o gospodarce nieruchomościami (t.j. Dz. U. z 2023 r. poz. 344)).
[53] Act of 28 September 1991 on Forests (uniform text Journal of Laws of 2023, item 1356) (in Polish: ustawa z dnia 28 września 1991 r. o lasach (t.j. Dz. U. z 2023 r. poz. 1356)).
[54] Act of 20 July 2017 The Water Law (uniform text Journal of Laws of 2023, item 1478) (in Polish: Ustawa z dnia 20 lipca 2017 r. Prawo wodne (t.j. Dz. U. z 2023 r. poz. 1478)).

The public notary, the enforcement officer and the head of the tax office request an entry only via an electronic information system. Viewing entries in the land and mortgage register is free of charge and possible online on a dedicated website: https://ekw.ms.gov.pl/. However, only the owner, a notary public or a person authorised by the owner or a person with a legal interest may have access to the documents constituting the basis for an entry. The land and mortgage register files might be ordered for viewing by the abovementioned persons at the relevant court.

For investors, the public warranty of land and mortgage registers is particularly important. Pursuant to this principle, in the event of a discrepancy between the legal status of a real estate as disclosed in the land and mortgage register and the actual legal status, the contents of the register prevail in favour of the person who acquired ownership or another property right through a legal transaction with the person disclosed in the register.

The public warranty of land and mortgage registers does not, however, apply against: (i) rights encumbering the property by operation of law, irrespective of the entry, (ii) life estate rights, (iii) easements established by decision of a competent state administration authority, (iv) easements of way or established in connection with the crossing of a border when constructing a building or other equipment, and (v) easements of transmission. Also, the public warranty of land and mortgage registers does not protect dispositions free of charge or made in favor of a buyer acting in bad faith, and the public warranty of land and mortgage registers is also excluded by a reference to an application or a warning regarding the inconsistency of the legal status disclosed in the land and mortgage register with the actual legal status.

5. TYPES OF SELLERS

Depending on the type of sellers, real estate transactions may require the fulfilment of additional conditions.

If the seller is a legal person, such as a commercial company, the transfer of title to the real estate may be subject to the appropriate corporate approvals in accordance with the statutory regulations or the provisions of the company's Articles of Association / statutes. For example, in case of a limited liability company / joint-stock company, a resolution of the shareholders/ stockholders is required for the acquisition and disposal of real estate, perpetual usufruct or an interest in real estate, unless the Articles of Association provide otherwise.

In general, real estate owned by the State Treasury or local government units is, as a rule, sold or given away in perpetual usufruct through a tender procedure. However, there are some exceptions to this rule – for example, the real estate is sold without a tender if its perpetual usufructuary acquires it. Details of the tender procedure have been described above.

If the seller is a married natural person and the spouses have statutory joint real estate ownership, any legal transaction leading to the sale, encumbrance, acquisition of real estate or perpetual usufruct for consideration, as well as leading to the transfer of real estate for use or drawing benefits from it, requires the consent of the other spouse. The validity of an agreement that has been concluded by one spouse without the required consent of the other spouse depends on the confirmation of the agreement by the other spouse. The refusal to confirm renders the agreement invalid.

PLANNING DOCUMENTS: ZONING PLAN AND ZONING DECISION

The conditions of real estate development are specified in either the zoning plan (zoning plans cover a large part of Poland's territory and coverage of the country by plans is progressively increasing) or, if the zoning plan was not adopted, in the zoning decision (which often gives investors a flexible tool for implementing investments)[55]. It should be noted that prior to the issuance of the building permit, the compliance of the building design with the provisions of the zoning plan and other acts of local law or the zoning decision and other acts of local law is verified.

[55] Act of 27 March 2003 on Spatial Planning and Development (uniform text Journal of Laws of 2023, item 977) (in Polish: ustawa z dnia 27 marca 2003 r. o planowIniu i zagospodarowaniu przestrzennym (t.j. Dz. U. z 2023 r. poz. 977)).

1. ZONING PLAN

Zoning plans are local laws adopted by municipalities for the whole or a part of the municipal area. The zoning plan specifies the intended use of the lands covered by the plan and determines the manner and conditions of their development. Therefore, before starting an investment for an investor, it is crucial to become familiar with the zoning plan covering the real estate on which the investment is to be developed in the future.

The zoning plan specifies, i.a.:

- land use;
- principles of environmental protection;
- principles of protection of cultural heritage and monuments;
- maximum and minimum building intensity as an indicator of the total built-up area in relation to the area of the building plot;
- the minimum percentage of biologically active area in relation to the area of the building plot;
- maximum height of buildings;
- minimum number of parking spaces;
- detailed rules and conditions for the consolidation and division of real estate;
- restrictions on the use of land;
- principles of construction and modernization of communication and technical infrastructure systems;

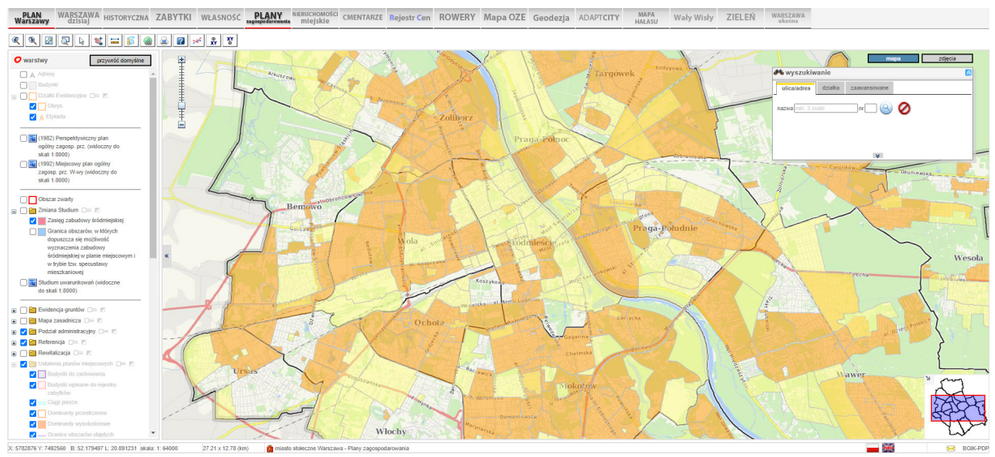
and many others.

Some investments require the adoption of the zoning plan, such as:

- commercial facilities with a sales area of more than 2,000 m2;
- wind power plants;
- investments in a health resort;
- investments on the territory of former military airfields;
- investments on the territory of former military units;
- investments on the territory of former military units of the Russian Federation;
- investments in the area of the site of a former Nazi extermination camp;
- investments in the area of a public use airport;
- investments on the territory where a cultural park has been established;
- investments on agricultural land of classes I-III outside the borders of cities and on forestry land- if the land has not been designated for investment so far (this means that land has not received approvals for change of designation, required under the Act of 3 February 1995 on the Protection of Agricultural and Forest Land).

After the zoning plan has been declared consistent with the study of conditions and directions for spatial development of the municipality, the municipal council adopts a resolution to adopt the plan. Such resolution together with the plan itself is published on the municipal website and is publicly available. It is worth pointing out that many zoning plans are published on the website geoportal.gov.pl under the name „Zoning plans", as well as in local geoportals maintained for a specific municipality or other area. The investor is able to quickly and efficiently verify the designation in the zoning plan.

For example, the map available on the geoportal of the Capital City of Warsaw is presented below – areas where zoning plans are already in force are marked in orange, whereas the areas where zoning plans are being prepared are marked in yellow:



https://mapa.um.warszawa.pl/mapaApp1/mapa?service=plany_zagospodarowania&L=pl

The zoning plan constitutes the basis for the issuance of administrative decisions, such as the building permit. The designer may immediately proceed with the preparation of the building design on the basis of the enacted zoning plan.

It should be noted that a one-off zoning fee is collected by a relevant authority if the value of the real estate has increased in connection with the adoption of the zoning plan (or its amendment) when the owner or perpetual usufructuary disposes of this real estate. The amount of the zoning fee is determined as a percentage of the increase in the value of the real estate and may not exceed 30% of such increase. After the expiry of five years from the date of entry into force of the zoning plan or its amendment, the zoning fee is not due.

If the planned investment is not compatible with the way the real estate should be developed under the zoning plan, it is possible to amend the zoning plan. The investor may file a request to amend the zoning plan with the relevant authorities. However, such a request is only considered as a proposal and the statutory regulations do not provide any procedures or deadlines for its consideration. Amending the zoning plan is a lengthy and complex process.

The legislator has made it possible for an investor, with regard to residential investments and accompanying investments, to apply for a resolution by the relevant municipal council to determine the location of the investment even against the provisions of the zoning plan of the municipality, and in some cases even against the provisions of the study of the conditions and directions of spatial development of the municipality[56].

2. ZONING DECISION

In cases when a zoning plan has not been adopted for a given area prior to the commencement of the investment, the investor in most cases must obtain an individual administrative decision, i.e. a zoning decision, which covers only the investment area. Unfortunately, in such a case, the investment is prolonged because the designer can only proceed with the building design after such a decision has been obtained.

Any person, not only the owner of the real estate, as a legal title to use the real estate is not necessary, may apply for the issuance of the zoning decision, which means that several zoning decisions for different investments may be issued for one area. Obtaining a building permit for one of these investments on the basis of such decision precludes the realization of the others. The zoning decision is issued by the head of the municipality (in Polish: *wójt*), or the mayor (in Polish: *burmistrz albo prezydent miasta*), as appropriate, after arrangement (in Polish: *uzgodnienie*) with the relevant authorities, if required, such as the provincial conservator of monuments (in Polish: *wojewódzki konserwator zabytków*) or the regional director for environmental protection (in Polish: *regionalny dyrektor ochrony środowiska*).

The issuance of a zoning decision is possible only if the conditions are jointly met, i.a.:

- at least one adjacent plot is developed for a similar aim;
- the real estate has access to a public road;
- the infrastructure is adequate for the planned investment.

Investments that cannot be carried out on the basis of the zoning decision, and for which a zoning plan is required, are indicated above in point 2.1. "Zoning plan".

As a rule, the authority has 90 days to issue a zoning decision, calculated from the date of submission of the application. The authority that issued the zoning decision is obliged if the party in whose favour the decision was issued has granted its consent, to transfer that decision to another person if that person accepts all the conditions contained in that decision.

As a rule, zoning decisions are perpetual in nature.

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Planning and zoning "in the new way" – changes in 2023

On 24 September 2023, significant changes to planning and zoning, introduced by the Act of 7 July 2023 on amendments to the Act on Spatial Planning and Development and certain other acts (Journal of Laws of 2023, item 1688) (in Polish: Ustawa z dnia 7 lipca 2023 r. o zmianie ustawy o planoIaniu i zagospodarowaniu przestrzennym oraz niektórych innych ustaw (Dz.U. z 2023 r. poz. 1688)) (the "Act"), came into force. This is one of the most significant changes in recent years, which almost completely changes the concept regarding planning documents. The Act introduces new tools and clarifies some of the mechanisms currently existing. The primary purpose of the Act is to regulate planning issues over the entire territory of Poland, not just a part of it, as it has been so far.

[56] Act of 5 July 2018 on Facilitations in the Preparation and Implementation of Residential Investments and Accompanying Investments (uniform text Journal of Laws of 2021, item 1538) (in Polish: Ustawa z dnia 5 lipca 2018 r. o ułatwieniach w przygotowaniu i realizacji inwestycji mieszkaniowych oraz inwestycji towarzyszących (t.j. Dz. U. z 2021 r. poz. 1538)).

General Plan:

- the General Plan will replace the study of conditions and directions for spatial development of municipalities (in Polish: studium uwarunkowań i kierunków zagospodarowania przestrzennego), which will remain in force until the effective date of the General Plan of the municipality, but no longer than 31 December 2025;
- deadline for the municipality to adopt the General Plan is till the end of 2025;
- provisions of the General Plan will be binding when establishing local zoning plans and when issuing zoning decisions;
- the General Plan will be an act of local law (in Polish: akt prawa miejscowego), which also means that the General Plan would be (if applicable) subject to a legal challenge (in Polish: zaskarżony);
- the scope of the General Plan is defined – its normative part will concern the most important arrangements for zoning the municipality's area, as well as the establishment of not-to-exceed conditions for the implementation of investments in terms of urban parameters and indicators specified in the municipal urban planning standards;
- the General Plan may establish the boundaries of areas of development completion (in Polish: obszar uzupełnienia zabudowy) – that is, areas where zoning decisions will be permitted, as well as areas of inner city development (in Polish: obszary zabudowy śródmiejskiej), for which additional rules on the shaping of development and land use will be introduced. An optional element of municipal urban planning standards will be standards for the availability of social infrastructure facilities (in Polish: obiekty infrastruktury społecznej);
- the basis for establishing municipal urban planning standards in the General Plan has been introduced – these standards will be divided into a mandatory municipal catalog of planning zones and optional standards for the availability of social infrastructure (in Polish: dostępność infrastruktury społecznej);
- municipal standards of accessibility of social infrastructure were clarified (this applies in particular to residential areas).

Local zoning plans:

- existing local zoning plans remain in force and from 1 January 2026, new local zoning plans/ amendments to existing local zoning plans shall be made only on the basis and in accordance with the General Plans;
- the development of WOH (i.e. objects with a sale area of more than 2,000 m2) will still require an appropriate designation in the local zoning plan;
- change of land use in a manner contrary to the local zoning plan will be subject to a new penalty;
- the alternative, simplified procedure for adopting or amending a local zoning plan has been indicated:
  - the Act specifies that the simplified procedure applies, inter alia, when the local zoning plan or its amendment relates exclusively to the location of renewable energy sources installations other than wind power plants, the amendment of the local zoning plan relates exclusively to the introduction of arrangements related to flooding or arrangements arising from other legal acts (e.g. the establishment of forms of nature protection, water intake protection zones), etc.;
  - the governor will decide on the applicability of the simplified procedure;
  - the simplified procedure skips the stage of collecting applications to the local zoning plan;
  - this procedure allows simultaneous application to the governor, requesting opinions and agreements, and announcing the start of public consultations. Additional simplifications also include allowing a reduction in the scope of public consultations, as well as a shorter period for consultation, agreement and opinion.

Zoning decision:

- the validity period of new zoning decisions i.e. which are issued and became final on or after 1 January 2026: 5 years from the date the decision became final;
- issued zoning decisions which became final before 1 January 2026 will remain in force andthe current regulations will be applicable to them, primarily, they are not limited in time;
- until the date of expiration of the municipality's study of conditions and directions for spatial development of municipality, a change in land use may also be made on the basis of a zoning decision;
- a zoning decision can be issued: (i) only in the area of development completion designated in the General Plan (there are several exceptions to this general rule, among others, in the case of reconstruction, superstructure and expansion of existing facilities); (ii) a zoning decision must be in accordance with the General Plan (arrangements arising from the General Plan relating to planning zones, municipal urban standards and areas of inner city development are expected to form the legal basis for zoning decisions) – without meeting these prerequisites, a zoning decision will not be issued.

Integrated Investment Plan (ZPI):

- the Act introduces a new method of locating investments, i.e. the Integrated Investment Plan ("ZPI"), which will in terms of determining the main investment area will be able to apply to the location of any type of investment, including service, production and warehouse developments;

- ZPI will be a special type of local zoning plan, adopted by the municipal council at the request of the investor, after negotiations and the conclusion of an urban planning agreement, specifying the terms and conditions for the implementation of the investment and the obligations of the parties – the procedure is initiated at the request of one or more investors;
- the Act also indicates how to establish the boundaries of the ZPI area as the main investment area and, if necessary, the complementary investment area. ZPI can also be adopted in areas already covered by local zoning plans. In such a case, the ZPI replaces the existing local zoning plan;
- the procedure for drafting the ZPI has been specified, which is mostly in line with the general rules of the procedure for drafting a local zoning plan, with partial modifications to streamline the process;
- after the municipal council gives its consent to proceed with the preparation of the ZPI, the mayor or city president conducts negotiations with the investor/s, determining the content of the draft urban planning agreement and the ZPI;
- an additional element of the procedure is the conclusion of an urban planning agreement with the investor/s – a rule has been introduced that until an urban planning agreement is concluded, the mayor or city president may withdraw from negotiations with the investor/s, of which he must inform the municipal council;
- the purpose of the urban planning agreement is to shape between the municipality and the investor/s the rules of implementation and financing of complementary investments, including technical infrastructure, communications and social services;
- the urban planning agreement will be concluded subject to the entry into force of the ZPI, the draft of which will be an appendix to the agreement;
- within 6 months, there is a possibility for withdrawal from the urban planning agreement if the ZPI is repealed or amended within the specified period, which is intended to provide legal security to the investor/s if he does not accept the change in the local zoning plan.

In addition to the abovementioned, major changes within the framework of spatial planning, the Act also introduces the institution of an Urban Register (in Polish: Rejestr Urbanistyczny), the primary purpose of which will be to gather all planning information and data in one place (which will certainly facilitate access to – often dispersed – information and will be a useful tool for investors) – this data will be collected electronically. The Act also introduces a separate chapter called: "Public Participation," developing the existing provisions on public participation in work on zoning acts.

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PARTICIPANTS IN THE CONSTRUCTION PROCESS

According to the Construction Law[57], the following persons are the participants in the construction process:

- investor,
- investor's supervision inspector,
- designer,
- construction manager or works manager.

[57] Act of 7 July 1994 The Construction Law (uniform text Journal of Laws of 2023, item 682) (in Polish: Ustawa z dnia 7 lipca 1994 r. Prawo budowlane (t.j. Dz. U. z 2023r. poz. 682)).

1. INVESTOR

The investor has the right to use the real estate for construction purposes. The investor is the only participant in the construction process, being at the same time a party to the administrative proceedings for the issuance of a building or occupancy permit. Only the investor is able to obtain a building permit. The investor may commission all or part of its tasks to a specialised substitute investor, the scope of duties of which results from the investment substitution agreement. Often, a general contractor is also involved in the construction process pursuant to a construction works agreement concluded with the investor. The investor does not have to be the owner or perpetual usufructuary of the real estate, but must have the right to use the land for construction purposes.

2. INVESTOR'S SUPERVISION INSPECTOR

A natural person having building qualifications for the management of specific construction works may be appointed as the investor's supervision inspector. Depending on the type and complexity of the investment, the appointment of the investor's supervision inspector may be obligatory. The inspector is responsible for monitoring the compliance of the conducted works with the design, the building permit, as well as the statutory regulations.

3. DESIGNER

The designer prepares the building design that must be attached to the application for a building permit. Only a person indicated on the list of members of the relevant chamber of the professional self-government of architects or civil engineers may be chosen as a designer for a given project. During the process of construction, the designer has the right to enter the construction site and demand that the construction work should be stopped if a danger arises or the work is not carried out in accordance with the building design.

4. CONSTRUCTION MANAGER OR WORKS MANAGER

The appointment of a construction manager is, as a rule, mandatory for projects requiring a building permit – in other cases, the investor may appoint one. Only a natural person having the relevant building qualification may be chosen as the construction (works) manager. Considering the transparency of the construction process, it is forbidden to combine the function of construction manager with the function of the investor's supervision inspector.

ARCHITECTURAL AND CONSTRUCTION ADMINISTRATION AND BUILDING SUPERVISION AUTHORITIES AND OTHERS

As part of the construction process, the developer has to apply to various authorities in order to obtain the necessary decisions and permits. The most common and important decisions and authorities to which applications must be addressed are listed below. The table below also includes examples of how long it takes to obtain a relevant decision. However, please note that in reality, the time taken to issue a decision will be influenced by a number of factors, including the type of investment, the need for arrangements with other authorities, or how many deficiencies in the application will have to be addressed.

Decision	Authority	Example of time to obtain a decision
Decision on environmental conditions	Head of the municipality (in Polish: wójt), or mayor (in Polish: burmistrz albo prezydent miasta) In certain cases – indicated in law regulations – the competent authority may be the Regional Director of Environmental Protection, the General Director of Environmental Protection, the Head of the District Authority or the Director of the Regional Directorate of State Forests	At least 5- 12 months In cases where only, a project outline specification (in Polish: Karta Informacyjna Przedsięwzięcia) is needed – around 6 months If an environmental impact report is needed – more than one year
Integrated permit	Starost (in Polish: starosta) In certain cases – indicated in law regulations – the competent authority may be the Marshal of the Voivodship (in Polish: marszałek województwa) or the Regional Directorate of Environmental Protection.	Around 6- 12 months.

Decision	Authority	Example of time to obtain a decision
Zoning decision	Head of the municipality or mayor	Around 2- 6 months
Water permit	In certain cases – indicated in law regulations – the Director of the Polish Water Board's basin management board, the Director of the regional water management board of the Polish Water Board, or the Minister in charge of water management.	Around 1- 2 months if the application is complete
Decision to exclude land from agricultural or forestry production	Exclusion from agricultural production – Starost (in Polish: starosta)* Exclusion from forestry production – the Director of the regional directorate of State Forests.	Around 30 days
Building permit (incl. approval the plot or land development project and architectural-construction project) / notification of construction or other construction work	Starost (in Polish: starosta)* In certain cases – indicated in law regulations – the competent authority may be a voivode (in Polish: wojewoda).	Around 3- 4 months, provided that the required documentation has been prepared in advance and the necessary decisions have been obtained from the competent authorities
Notice of construction start date	Poviat construction supervision inspector (in Polish: powiatowy inspektor nadzoru budowlanego) In certain cases – indicated in law regulations – the competent authority may be a voivodeship construction supervision inspector (in Polish: wojewódzki inspektor nadzoru budowlanego).	N/A
Occupancy permit / notification of completion of construction	Poviat construction supervision inspector (in Polish: powiatowy inspektor nadzoru budowlanego) In certain cases – indicated in law regulations – the competent authority may be a voivodeship construction supervision inspector (in Polish: wojewódzki inspektor nadzoru budowlanego.	Approximately 14 days – two months

* In the case of cities with poviat rights, the mayor of such city has the powers of a starost.

It should be noted that the duration of the proceedings depends on a number of factors, including the type of investment, real estate conditions, the case workload in a particular office, as well as in consulting and approving authorities, or the activity of other parties to the proceedings.

CONSTRUCTION PROCEDURES, IN PARTICULAR:
AUTHORITIES AND THEIR COMPETENCES, DOCUMENTS REQUIRED, INCLUDING THE DEVELOPMENT PROJECT, DURATION OF ADMINISTRATIVE PROCEEDINGS

As a rule, each entity that has the right to use the land for construction purposes may develop such land, as long as the planned investment is legal. In general, construction works on real estate may be carried out only on the basis of a decision on a building permit. However, this rule does not apply to smaller-scale investments – for which, as a rule, only the intention to carry out construction works should be notified to the competent authority. The Construction Law contains an exhaustive list of cases in which construction requires a notification. In some cases (indicated in the Construction Law), for example when renovations are carried out, neither a building permit nor a notification of construction or other works is required.

1. BUILDING PERMIT

As a rule, pursuant to the Construction Law, before the execution of the investment may begin, the investor has to apply for an administrative decision authorising the commencement and carrying out of construction works, i.e. a decision on a building permit. Not only the investor, but also the owners, perpetual usufructuaries or managers of the real estate located in the area of influence of the development are the parties to the building permit proceedings. However, only the person who has the right to use the real estate for construction purposes can initiate the building permit proceedings.

In general, the decision on a building permit is issued by the starost (in Polish: ***starosta***) or the mayor of a city with poviat rights (in Polish: ***prezydent miasta na prawach powiatu***). In cases of some investments, which mainly are for infrastructure purposes, such as construction works concerning national and provincial public roads or civil airports, an application for a building permit should be submitted to the voivode (in Polish: ***wojewoda***).

Before applying for the building permit, the investor has to obtain the necessary permits, approvals and opinions from other authorities, such as:

- the decision on environmental conditions, (detailed information in section VI.1),
- in case of carrying out construction works on an object entered in the register of monuments or in an area entered in the register of monuments requires, prior to the issuance of a building permit, obtaining a permit to carry out these works, issued by the competent provincial conservator of monuments[58],
- a decision to exclude forest/agricultural land from forest/agricultural production, described below, if applicable[59],
- water permit, described below, if required[60],
- plot or land development project and architectural-construction project and the technical design of a building which is significant due to the necessity to ensure the protection of life, health, property or the environment against fire, natural disaster or other local hazard, as well as the design of a fire-fighting device require agreement with an expert as regards compliance with fire protection requirements[61],
- any other permits, approvals and opinions from other authorities depending on the nature and type of the investment, its scope and the manner in which it will be carried out.

If the investor applies for a building permit based on a zoning decision, the application must be submitted while the zoning decision has not expired. The zoning decision may expire when another applicant has obtained a building permit or when a zoning plan has been adopted, the provisions of which are different from those in the issued zoning decision.

[58] Act of 23 July 2003 on the Protection and Care of Historical Monuments (uniform text Journal of Laws 2022, item 840) (in Polish: ustawa z dnia 23 lipca 2003 r. o ochronie zabytków i opiece nad zabytkami (t.j. Dz. U. z 2022 r. poz. 840)).
[59] Act of 3 February 1995 on the Protection of Agricultural and Forest Land (uniform text Journal of Laws of 2022, item 2409, as amended) (in Polish: ustawa z dnia 3 lutego 1995 r. o ochronie gruntów rolnych i leśnych (t.j. Dz. U. z 2022 r. poz. 2409)).
[60] Act of 20 July 2017, The Water Law (uniform text Journal of Laws 2023, item 1478, as amended) (in Polish: ustawa z dnia 20 lipca 2017 r. Prawo wodne (t.j. Dz. U. z 2023 r. poz. 1478)).
[61] Act of 24 August 1991 on Fire Protection (i.e. Journal of Laws 2022, item 2057, as amended) (in Polish: Ustawa z dnia 24 sierpnia 1991 r. o ochronie przeciwpożarowej (t.j. Dz. U. z 2022 r. poz. 2057)).

In particular, the following documents should be attached to the application for a building permit:

- plot or land development project and architectural-construction project – together with the abovementioned opinions, arrangements, permits and other documents which must be enclosed under separate acts, or copies of such opinions, arrangements, permits and other documents,
- a statement on the right to use the real estate for construction purposes,
- a zoning decision, if required,
- permits and decision indicated in the Act of 21 March 1991 on Maritime Areas of the Republic of Poland and Maritime Administration (uniform text Journal of Laws of 2022, item 457 as amended)[62], if required,
- urban planning agreement, if its conclusion is required under the local revitalisation plan,
- in the case of radio-communication installations – a declaration of the designer that the radio-communication installation does not fulfil the conditions of the investments likely always or potentially to have a significant impact on the environment,
- in the case of a building in which the use of heat for heating or domestic hot water is anticipated – a declaration of the designer concerning the possibility to connect the designed building to the existing heat network in accordance with law, submitted under the pain of criminal liability for making a false statement,
- in the case of a construction project, preceded by the decision on environmental conditions issued in the procedure requiring public participation – a graphic attachment identifying the predicted area on which the project will be implemented and the predicted area which the project will have an impact on, if attaching this attachment was required by the regulations in force on the day of submitting the application for the decision on environmental conditions,
- and any other documents specified in and referred to in the Construction Law.

Investments for which a building permit must be obtained may only be carried out on the basis of a building design. The building design consists of the abovementioned plot or land development project drawn up on an up-to-date map for design purposes and an architectural-construction project, as well as a technical project, the requirements of which are indicated in the Construction Law. The detailed scope and form of the building design are regulated by ordinance of the Minister of Development[63].

The decision on a building permit should be issued within 65 days of the application. This deadline does not include periods of suspension of proceedings and delays due to the investor's fault, or for reasons beyond the control of the authority. If the application does not meet the requirements established by law, the deadline, will be counted from the date of removal of formal deficiencies. The deadlines provided by law for the architectural and construction administration authorities to obtain an approval or opinion are not included in the deadline for processing the case.

It should be noted that if construction has not begun before the expiration of three years from the date on which the building permit became final or construction has been suspended for more than three years, the building permit will expire. The start of construction can begin as soon as a building permit has become final. However, if the decision is given immediate enforceability, or if the decision is in accordance with the request of all parties, or if all parties have waived their right to appeal, the start of construction can begin despite the lack of finality of the decision.

The beginning of construction by the investor occurs when preparatory work is undertaken on the site. Preparatory works are:

- surveying delineation of objects in the field;
- execution of land levelling;
- development of the construction site including construction of temporary facilities;
- making connections to the technical infrastructure network for construction purposes.

The investor is obliged to notify the construction supervision authority and the designer supervising the compliance of the construction with the design of the intended date of commencement of construction works.

Transferring the building permit onto a new investor is possible, however the consent of the previous investor in whose favour the decision was issued is required for the transfer. The consent of the previous investor is not required if the ownership of the real estate or the rights of perpetual usufruct over the real estate covered by the decision on the building permit after its issuance have passed from the previous investor to the new investor applying for the transfer of the building permit.

Substantial deviation from the approved plot or land development project and from the architectural-construction project or other conditions of the building permit decision is allowed only after obtaining a decision to amend the building permit issued by the starost, the president of a city with poviat rights or voivode, as appropriate.

[62] In Polish: Ustawa z dnia 21 marca 1991 r. o obszarach morskich Rzeczypospolitej Polskiej i administracji morskiej (t.j. Dz. U. z 2023 r. poz. 960.).
[63] Ordinance of the Minister of Development of 11 September 2020 on the detailed scope and form of the building design (uniform text Journal of Laws of 2022, item 1679) (in Polish: Rozporządzenie Ministra Rozwoju z dnia 11 września 2020 r. w sprawie szczegółowego zakresu i formy projektu budowlanego (t.j. Dz. U. z 2022 r. poz. 1679)).

Digitalization in the construction industry

Changes in the Construction Law that have already been implemented in this regard include:

- Electronic Central Register of Building Permit Holders (e-CRUB) (in Polish: Elektroniczny Centralny Rejestr osób posiadających Uprawnienia Budowlane), effective as of 1 August 2022;
- Digital Construction Book (CKOB) (in Polish: Cyfrowa Książka Obiektu Budowlanego), effective as of 1 January 2023;
- Electronic Construction Journal (EDB) (in Polish: Elektroniczny Dziennik Budowy), effective as of 27 January 2023.

The e-CRUB is a browser available at: e-crub.gunb.gov.pl. The registry contains data on authorized engineers and architects. This application also contains information on penalties for professional liability in the construction industry, which significantly improves transparency in the construction process. The data is publicly available and updated based on data from professional chambers responsible for granting authorizations in the construction industry.

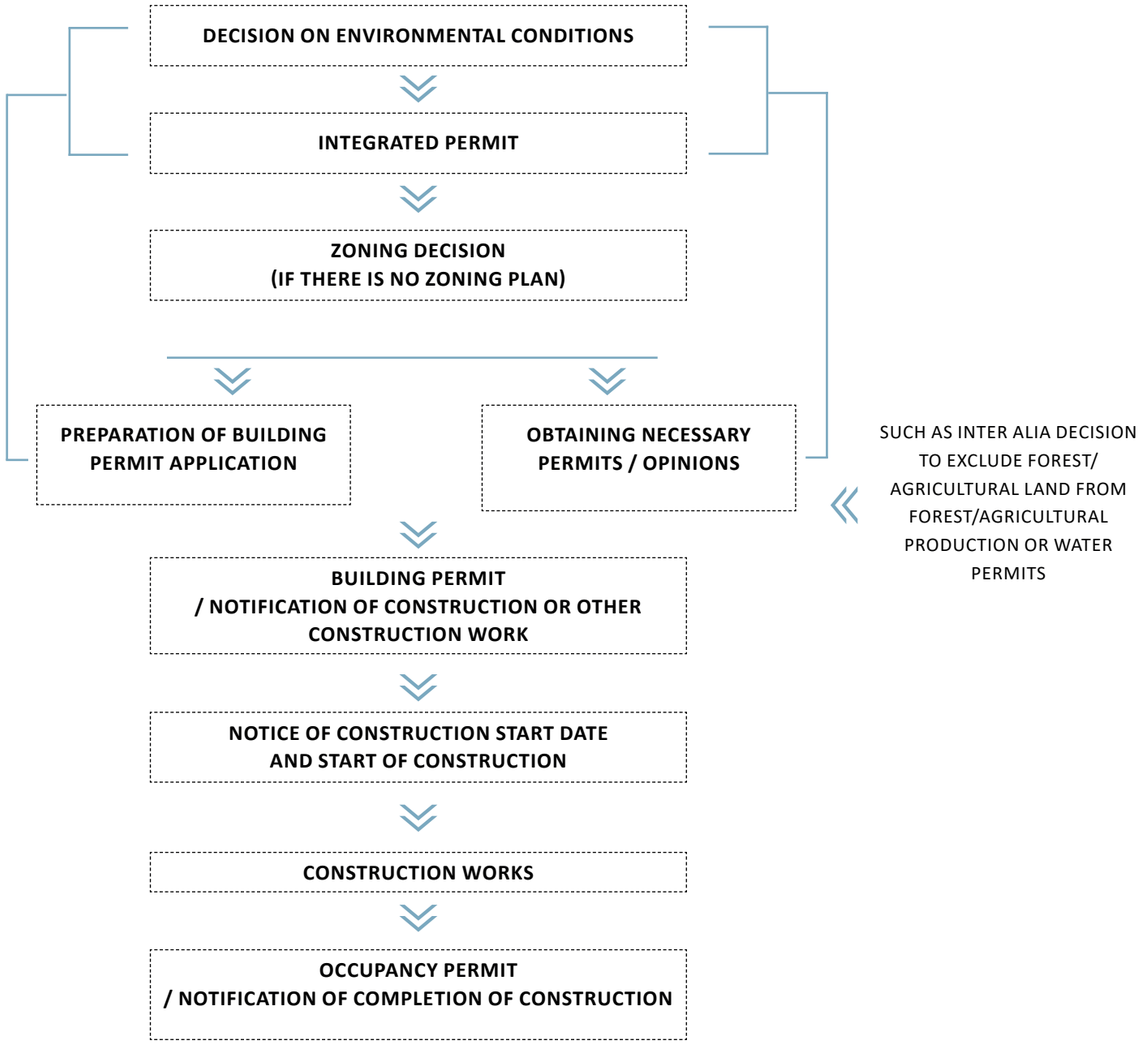
The CKOB is an application available after creating an account and logging in at: c-kob.gunb.gov.pl, in which any owner or manager of a facility can make entries with regard to information on owners and managers of a building facility, regarding the building facility, inspections carried out, expert reports and opinions issued, as well as changes in the substance of the building facility, in the form of works carried out after commissioning and construction disasters concerning it. The CKOB will also cover decisions and other documents issued by public administration authorities concerning the construction facility. Starting from 2027, the CKOB will be available only in electronic form. By 2027, it will be possible to maintain a construction book in both paper and electronic form.

The EDB, is a system available at: e-dziennikbudowy.gunb.gov.pl. Its electronic version was created on the assumption that it is the most important document on a construction site (and during installation or demolition), as it records the course of the work and any events that may be relevant when assessing the correctness of the work carried out, and therefore should be maintained in a strictly defined manner, above all transparently and reliably, and should be protected against loss. The main entity managing the EDB for a given site is the investor. Inspection of the EDB data is available to the architectural and construction administration and construction supervision authorities, as well as other authorities authorized to control compliance with the regulations at the construction site. The main advantages of EDB include, primarily: (i) detachment from the paper version of the document, which allows remote management of the construction process, the addition of participants in the process and the designation of working hours, (ii) authorization to view entries made in the electronic construction journal from anywhere by all participants in the construction process, (iii) free web version accessible from any web browser and mobile versions downloadable from Apple Store and Google Play stores. In 2023, the investor will have the right to change the form of the construction journal, between paper and electronic form. The construction journal in paper form will be able to continue in electronic form, but this will not work the other way around. From 2030, there will be a mandatory switch to an electronic construction journal.

DURATION OF THE DEVELOPMENT PROJECT

The time needed to complete and develop a real estate project depends in each case on the type of investment and the duration of the relevant procedural elements. However, experience shows that it usually takes 18 to 20-something months to complete a larger development. In the cases of construction of factories, this period may be at least 3.5 years. The design of infrastructure and utilities requires at least 12 months. At the same time, the implementation of the building can be designed, for which about 12-16 months are needed. The construction of the factory itself can take around 1-2 years. The above depends on the time needed to obtain all necessary decisions, for instance, the decision on environmental conditions may extend the process by 5 to 12 months.

The following illustration shows the successive stages of the construction process. In the table in section 4 examples are shown of the time required for various authorities to obtain decisions. However, it should be noted that these deadlines (in most cases) will be differed due to, e.g. supplementing deficiencies, receiving opinions from other authorities, thus the entire investment process is prolonged. Moreover, depending on the type and conditions of the investment, not all of the following steps will need to be taken. Also, it is common practice is to apply for a decision on environmental conditions and a zoning decision at the same time, in order to then apply for an amendment to the zoning decision application after the environmental decision is issued.



PROCEDURES, DOCUMENTS AND COMPETENT AUTHORITIES RELATED TO THE PROVISION OF ACCESS TO INFRASTRUCTURE, INCLUDING UTILITY NETWORKS: ELECTRICITY, GAS, WATER, SEWERAGE, TELECOMMUNICATIONS AND PUBLIC ROAD

The designer is the main person responsible for adapting the investment project to the law and local conditions. The construction object and related construction equipment should be designed in such a way as to ensure that the basic requirements for the following are met first: bearing capacity and stability of the structure, fire safety, hygiene, health and environment. The next basic requirements to be met are: safety of use and accessibility of facilities, noise protection, energy conservation and thermal insulation, sustainable use of natural resources.

Depending on the intended use of a construction object, it should meet the relevant operating conditions. In particular, they must be met with regard to the supply of water and electricity and, as appropriate, thermal energy and fuels, assuming efficient use of these factors, as well as with regard to the disposal of sewage, rainwater and waste.

The technical conditions to be met by buildings and their location is a package of regulations governing the design, construction, reconstruction and repair of buildings. The technical conditions specify the requirements to be met by buildings and related facilities, their location on a building plot and the development of plots of land intended for development[64].

Currently, at the stage of obtaining a building permit, there is no obligation to attach to the building design statements of the relevant entities concerning the conditions of connecting the building to water supply, sewage, heat, gas, electricity, telecommunication and land road networks. However, the fulfilment of the requirements for such connections and installations which ensure the use of the building in accordance with its intended purpose, is verified by the authorities when commissioning the building for use (i.e. in proceedings initiated by the notification of construction completion or application for an occupancy permit).

However, it is common practice for the authorities to require the abovementioned documents to be enclosed and obtaining them is, from a practical point of view, necessary for the designer to design the building design in such a way as to eliminate the risk of having to obtain an amended building permit. Moreover, the designer is obliged to prepare the design project in compliance with the law, including the technical conditions, which is subject to control at the stage of obtaining the building permit, while § 26 of the ordinance of the Minister of Infrastructure[65] states that a building plot intended for the development of buildings intended for human habitation should have the possibility of connecting the development of the plot or the building directly to the water supply, sewage, electricity and heating networks, and for buildings listed in the § 56 of the abovementioned ordinance – also telecommunications.

[64] Ordinance of the Minister of Infrastructure of 12 April 2002 on the technical conditions to be met by buildings and their location (uniform text Journal of Laws 2022, item 1225) (in Polish: rozporządzenie Ministra Infrastruktury z dnia 12 kwietnia 2002 r. w sprawie warunków technicznych, jakim powinny odpowiadać budynki i ich usytuowanie (t.j. Dz. U. z 2022 r. poz. 1225)).
[65] As above.

Nevertheless, information on the technical equipment of the building, including the designed heat source(s) for heating and domestic hot water preparation and the method of sewage disposal or treatment, is included in the building design submitted with the application for a building permit.

Prior to issuance of the occupancy permit, the approvals of connections by all relevant utility operators must be issued together with protocols of checks and approvals for all relevant installations (electricity, fire protection, water and gas). Without the above-mentioned approvals, it is impossible to obtain an occupancy permit.

Electricity, water, sewage, gas, heat and telecommunications connections can be implemented in three forms - on the basis of a building permit when the connection is only a part of a larger development project (e.g. a housing estate, multi-apartment house, plant), on the basis of a notification, or without a building permit and notification.

It should be kept in mind that often providing the real estate with proper access to a public road or connection to the networks will require establishment of proper easements encumbering the neighbouring real estate. Moreover, when planning an investment, the principles of modernisation, development and construction of communication and technical infrastructure systems are of key importance with respect to the connection of the investment to the networks, which must be specified in the zoning plan, and in the absence of a zoning plan, the provisions of the zoning decision concerning the service in the scope of technical infrastructure and communication.

1. ELECTRICITY

An application for grid connection conditions is submitted to the local energy operator and after certain technical works, a connection agreement is concluded. The result of works is the physical connection to the grid. The connection brings the electricity to the plot boundary.

The investor is responsible for connecting the installation to the real estate (internal power line). This can be done by any authorised company, but it is still the utility company that carries out the technical acceptance of the installation and the actual connection to the grid. Only then may a service agreement for electricity use be concluded.

The connection conditions specify[66] in particular:

- place of connection;
- real estate, facility or premises to which electricity is to be supplied;
- place of demarcation of ownership of the network of the energy company engaged in electricity transmission or distribution and the equipment, installation or network of the connected entity;
- place of electricity supply;
- the connection power;
- type of connection;
- scope of necessary changes to the network related to the connection;
- parameters of equipment, installations and networks;
- place of installation of the metering and billing system.

Connection conditions are valid for two years from the date of their determination. During the period of validity, the connection conditions constitute a conditional obligation of the energy operator to conclude an agreement for connection to the electricity grid. A fee is charged for connection to the grid.

The connection agreement should at least contain[67] provisions on, i.a.:

- term of the connection;
- amount of the connection fee;
- scope of works necessary for the connection implementation;
- requirements concerning the location of the metering and billing system and its parameters;
- connection schedule;
- liability of the parties for failure to comply with the terms of the agreement.

[66] Ordinance of the Minister of Climate and Environment of 22 March 2023 on detailed conditions for the operation of the energy system (Journal of Laws 2023, item 819) (in Polish: Rozporządzenie Ministra Klimatu i Środowiska z dnia 22 marca 2023 r. w sprawie szczegółowych warunków funkcjonowania systemu elektroenergetycznego (Dz. U. 2023 r., poz. 819).
[67] Act of 10 April 1997 – The Energy Law (uniform text Journal of Laws of 2022, item 1385) (in Polish: ustawa z dnia 10 kwietnia 1997 r.- Prawo energetyczne (t.j. Dz. U. z 2022 r. poz. 1385)).

2. WATER[68]

The water connection is the section that connects the water mains to the internal installation in the real estate. Most often, the network is owned by the municipality and managed by the local water and sewerage company. An application to the local authority to determine the technical conditions for the construction of the connection is required. An authorised company needs to draw up a design for the connection which has to be submitted to the Design Documentation Approval Team for approval and, once this has been obtained, to the water supply company. In the event that the construction of the connection requires interference with a road, the road authority must also be approached. After the construction is over, the technical acceptance is carried out by the water supply company and the water supply agreement may be concluded.
The costs of implementing the construction of water supply and sewerage connections are paid by investors applying for connection to the network. However, investors who have built water supply and sewerage connections with their own funds may transfer them to the municipality for a fee. No fee is charged for connection to the grid.

3. SEWERAGE MANAGEMENT

If it is possible to connect to the sewerage network, this is mandatory and the procedure is identical to that for a water connection.
The Ordinance of the Minister of Construction of 14 July 2006 on the manner of fulfilment of the obligations of industrial wastewater suppliers and the conditions for introducing wastewater into sewerage systems (uniform text Journal of Laws of 2016, item 1757)[69] specifies:

- the manner of fulfilment of the obligations of industrial wastewater suppliers;
- the conditions for introducing wastewater into sewerage facilities, including the permissible values of pollution indicators in industrial wastewater introduced into sewerage facilities;
- the manner of exercising control over the quantity and quality of wastewater.

Before starting to introduce wastewater into the sewerage network, the investor must request technical conditions for connection to the network and conditions as to the quality of wastewater discharged. On the basis of the technical conditions for connection received, the wastewater supplier may be obliged to design and construct a wastewater sub-treatment plant. The necessity of the installation of wastewater sub-treatment plants will occur if the expected parameters of industrial wastewater entering the sewerage system make it impossible to accept it into the facilities or pose a threat to the treatment process at the wastewater treatment plant. For the introduction of wastewater (even treated wastewater) into waters or land, or into water facilities, it is necessary to obtain a water permit, as further described in section VI.3.

4. GAS[70][71]

A gas connection is not necessary, but it is possible and relatively easy when there is a gas main in the vicinity of the real estate. A gas installation in a building higher than 35 m above ground level may be provided only to technical rooms in which gas appliances are installed. The use of gas installations in buildings over 25 m in height requires a positive opinion issued by the competent regional chief of the State Fire Service. The procedure for building a gas connection is similar to that for connecting electricity and water. Terms and conditions for connection to the electricity grid apply to the gas grid accordingly.

[67] Act of 10 April 1997 – The Energy Law (uniform text Journal of Laws of 2022, item 1385) (in Polish: ustawa z dnia 10 kwietnia 1997 r.- Prawo energetyczne (t.j. Dz. U. z 2022 r. poz. 1385)).
[68] Act of 7 June 2001 on Collective Water Supply and Collective Sewage Disposal (uniform text Journal of Laws of 2023, item 537) (in Polish: ustawa z dnia 7 czerwca 2001 r. o zbiorowym zaopatrzeniu w wodę i zbiorowym odprowadzaniu ścieków (t.j. Dz. U. z 2023 r. poz. 537)).
[79] In Polish: rozporządzenie Ministra Budownictwa z dnia 14 lipca 2006 r. w sprawie sposobu realizacji obowiązków dostawców ścieków przemysłowych oraz warunków wprowadzania ścieków do urządzeń kanalizacyjnych (t.j. Dz. U. z 2016 r. poz. 1757).
[70] Act of 10 April 1997 – The Energy Law (uniform text Journal of Laws of 2022, item 1385) (in Polish: ustawa z dnia 10 kwietnia 1997 r.- Prawo energetyczne (t.j. Dz. U. z 2022 r. poz. 1385)).385)).
[71] Ordinance of the Minister of Economy of 15 January 2007 on specific conditions for the operation of heating systems (Journal of Laws no. 16, item 92) (in Polish: rozporządzenie Ministra Gospodarki z dnia 15 stycznia 2007 r. w sprawie szczegółowych warunków funkcjonowania systemów ciepłowniczych (Dz. U. Nr 16, poz. 92)).

The table below presents the average time limits for issuance of the statements of the relevant entities concerning the conditions of connecting the building to electricity, water, sewage and gas supply. Please note that those time limits may vary depending on the specifying entity issuing the statement.

Issuance of the statements of the relevant entities concerning the conditions of connecting the building to different supplies

Electricity	Gas	Water	Sewage
Up to even 150 days depending on the connection capacity	Up to around 60-90 days	Up to around 21-45 days in case of investments	Up to around 21-45 days in case of investments

5. ACCESS TO PUBLIC ROADS

Access to a public road must be proven by the investor in the proceedings for approval of a development project and granting of a building permit. One of the most important issues in the planning and realisation of a development project is the provision of transport services for the building plot. This includes ensuring access to a public road. Such access may be provided directly or indirectly: through an internal road or easement. Another way is to conclude an use agreement between the owner of a real estate without access to a public road and the owner with such access. Within the scope of the concluded use agreement, the parties define the rules of use of the road. The fact that a building plot borders on a public road does not always mean that the real estate has access to a public road. In such a situation, it is necessary to obtain a permit for the location of the exit, which is granted in the form of an administrative decision issued by the relevant road manager[72]. Often, in order to obtain adequate access to a public road for an investment, it will be necessary to conclude an appropriate road agreement with a municipality or to obtain a decision on permission for the performance of a road investment, which will involve significant costs and time commitment on the part of the investor.

6. MUNICIPAL WASTE MANAGEMENT[73]

In the case of real estate where there are no residents but municipal waste is generated, the municipal council may decide, in a resolution constituting an act of local law, to collect such waste from the owners of such real estate. If the municipal council does not adopt a resolution, owners of real estate where there are no residents, but municipal waste is generated, are obliged to ensure collection of waste from such real estate on their own. In these circumstances, owners of real estate should sign an individual contract for the use of municipal waste collection services. However, in the case of properties where residents reside, the municipality is obliged by law to organize a system for collecting municipal waste from the owners of such real estate.

[72] Act of 21 March 1985 on Public Roads (uniform text Journal of Laws 2023, item 645) (in Polish: ustawa z dnia 21 marca 1985 r. o drogach publicznych (t.j. Dz. U. z 2023 r. poz. 645)).
[73] Act of 7 June 2001 on Collective Water Supply and Collective Sewage Disposal (uniform text Journal of Laws of 2023, item 537) (in Polish: ustawa z dnia 7 czerwca 2001 r. o zbiorowym zaopatrzeniu w wodę i zbiorowym odprowadzaniu ścieków (t.j. Dz. U. z 2023 r. poz. 537)).

PERMITS FOR THE USE OF THE BUILDING, INCLUDING ACCEPTANCE BY THE COMPETENT ARCHITECTURAL AND CONSTRUCTION AUTHORITIES AND, E.G. FIRE SERVICE, ETC.

1.COMMON RULES

The purpose of constructing a building is the ability to use it according to its intended function. After the construction is completed, depending on the category of buildings and the situations specified in the regulations, there are two ways to start using the building:

1. Notification of construction completion

It is possible to use the building structure upon notification to the building supervisory authority of the completion of the construction, if the authority, within 14 days from the date of service of the notification, does not raise an objection by way of a decision.

In the majority of cases, the notice of completion of construction is submitted to the poviat construction supervision inspector. A notice is submitted to the voivodeship construction supervision inspector when a building permit was issued by the voivodeship authority or a construction notification was submitted there.

2. Occupancy permit

The relevant authority needs to verify whether the construction is in compliance with the building permit issued prior to the construction. The building supervisory authority issues an occupancy permit after carrying out the mandatory inspection. In the occupancy permit, the authority may specify the conditions of use or oblige to carry out certain additional works. It is best to apply for the occupancy permit well in advance, as the building can only be used once the occupancy permit is in place. The investor is the only party to the proceedings aiming to obtain the occupancy permit.

Before a building can be put into use, an occupancy permit must be obtained. As a rule, (i) a building permit is required for the construction of a building and these buildings fall into the categories indicated in the Construction Law, including, i.a., industrial buildings, such as production buildings, buildings serving the energy industry, assembly plants, factories, and warehouse facilities and (ii) in the case of issuing decisions under the procedure of legalization or corrective procedure, (iii) the building is to be put into use before all construction work has been carried out.

In the majority of cases, the application for an occupancy permit is submitted to the poviat construction supervision inspector. An application is submitted to the voivodeship construction supervision inspector when the building permit was issued by the voivodeship authority.

Pursuant to the Construction Law, before applying for the occupancy permit, the investor is obliged to notify the authorities of the State Sanitary Inspectorate and the National Fire Service about the completion of the construction of the building and the intention to start using it. The notification obligation also applies to a construction object for which it is not needed to obtain the occupancy permit, but its development project implies the requirement to agree in terms of fire protection or hygiene and health requirements.

These services should take a position on the compliance of the construction of the building with the building design. If they fail to do so within 14 days from the date of receipt of the notice, it is considered as a lack of objection or comments.

The obligation to notify the State Sanitary Inspectorate of the completion of construction and intention to start using it applies when:

a) an occupancy permit for the building was required,

b) the design of the building required an agreement in terms of hygiene and health requirements.

The obligation to notify the National Fire Service of the completion of construction and intention to use the building structure applies when:

a) an occupancy permit is required,

b) the design of the building requires an agreement with a fire officer with respect to fire protection or hygiene and sanitary requirements.

It is possible to obtain a partial occupancy permit. In this case, an occupancy permit may be issued for a part of the building, but only if in its current state it can function as planned. In the occupancy permit issued, the authority should specify the term for completion of unfinished work.

2. FACILITY WITH AN INCREASED RISK OF ACCIDENT OR FACILITY WITH A HIGH RISK OF ACCIDENT

An investor intending to operate or operating an increased-risk or high-risk facility is obliged to ensure that the facility is designed, constructed, operated and decommissioned in a manner that prevents industrial accidents and limits their effects on people and the environment. A facility posing a risk of a serious industrial accident, depending on the type, category and quantity of hazardous substance present in the facility, is considered to be a facility with an increased risk of accident or a facility with a high risk of accident. The ordinance[74] specifies the types and quantities of hazardous substances present at the facility, determining the facility's classification as an increased-risk facility or a high-risk facility. These facilities include, in particular, chemical facilities, facilities using energy resources, including their storage.

The operator of an increased-risk or high-risk facility is required to notify the facility to the competent authority of the National Fire Service. As a rule, the operator of the facility is obliged to make a notification at least 30 days before the date of start-up of the new facility. The operator of the facility simultaneously informs the voivodeship environmental protection inspector about the notification. The operator of an increased-risk facility or a high-risk facility should prepare a program for the prevention of serious industrial accidents, as well as develop and implement a safety management system that guarantees a level of protection for people and the environment appropriate to the risks, as part of the overall management system of the facility. In addition, the operator of a high-risk facility is required to prepare a safety report.

[74] Ordinance of the Minister of Development of 29 January 2016 on the types and quantities of hazardous substances present at an establishment, determining the classification of a facility as a facility with an increased or high risk of a serious industrial accident (Journal of Laws, item 138) (in Polish: Rozporządzenie Ministra Rozwoju z dnia 29 stycznia 2016 r. w sprawie rodzajów i ilości znajdujących się w zakładzie substancji niebezpiecznych, decydujących o zaliczeniu zakładu do zakładu o zwiększonym lub dużym ryzyku wystąpienia poważnej awarii przemysłowej (Dz. U. poz. 138)).

NATURAL KEY REQUIREMENTS IN THE INVESTMENT AND CONSTRUCTION PROCESS

06

ENVIRONMENTAL ASSESSMENT OF THE INVESTMENT, INCLUDING ISSUES RELATED TO CONDUCTING AN ENVIRONMENTAL IMPACT ASSESSMENT; ENVIRONMENTAL DECISIONS

Depending on the location and development parameters, some investments may have a significant impact on the environment. Consequently, the need to obtain environmental decisions, primarily an environmental conditions decision, and conducting an environmental impact assessment may arise[75].

In addition, some projects may need to carry out land remediation (removal or reduction of the amount of contamination of the earth's surface), which often involves significant costs.

1. ENVIRONMENTAL IMPACT OF THE INVESTMENT

During the environmental impact assessment of an investment the following issues are identified and assessed:

- the direct and indirect impact of the given project on the environment and the population (which includes human health and living conditions), material goods, historic monuments, landscape and accessibility to mineral deposits,
- the risk of major accidents and natural and construction disasters,
- possibilities and ways of preventing and reducing the negative impact of the project on the environment,
- the required scope of monitoring.

If the assessment is carried out, the investor must submit a report on the environmental impact of the investment, the scope of which is determined by the authority issuing the decision on environmental conditions. Such a report should contain information enabling the analysis of the above issues.

[75] Act of 3 October 2008 on Providing Information on the Environment and its Protection, Public Participation in Environmental Protection and Environmental Impact Assessments (uniform text Journal of Laws of 2023, item 1094) (in Polish: ustawa z dnia 3 października 2008 r. o udostępnianiu informacji o środowisku i jego ochronie, udziale społeczeństwa w ochronie środowiska oraz o ocenach oddziaływania na środowisko (t.j. Dz. U. z 2023 r. poz. 1094)).

2. DECISION ON ENVIRONMENTAL CONDITIONS

Prior to starting the construction and before applying for the building permit, in certain cases it is necessary to obtain a decision on environmental conditions which is issued as a result of environmental impact assessment. This decision is required if an investment may always or potentially have a significant impact on the environment (a list of such projects is set out in the ordinance of the Council of Ministers[76]). The investor is obliged to obtain this decision, inter alia, in the case of investments involving the construction of car parks, for example next to shopping centres or residential developments.

Examples of investments that may always significantly impact on the environment or potentially significantly impact on the environment.

Investments always significantly impacting on the environment	Investments potentially significantly impacting on the environment
• Installations for the manufacture of substances using chemical processes; • Installations for surface treatment of metals or plastics; • Disassembly stations; • Processing facilities.	• Installations for the manufacture of products by mixing, emulsifying or confectioning chemical intermediates or primary products; • Installations for the manufacture or assembly of motor vehicles or the production of engines; • Mineral smelting facilities; • Industrial development, including development of photovoltaic systems, or storage, with associated infrastructure, with a development area of not less than 1 ha.

The proceedings on issuing the decision on environmental conditions are initiated at the request of the entity planning to execute the investment. For all planned projects which may always have a significant impact on the environment and some planned projects which may potentially have a significant impact on the environment, before a decision is issued an environmental impact assessment is carried out by the local government cooperating with local and regional authorities and in some cases also consulted publicly.

For projects that may always have a significant impact on the environment, an environmental impact report must be attached to the application for a decision on environmental conditions. Instead of the report, the investor can apply to the authority to determine the scope of the environmental impact report. In this case, the application must be accompanied by a project outline specification (in Polish: Karta Informacyjna Przedsięwzięcia), together with a request for determining the scope of the report. When the project planned by the investor may have a cross-border impact on the environment, the authority will obligatorily determine the scope of the report.

However, in the case of projects that may potentially significantly impact on the environment, the application must be accompanied by a project outline specification. A report on the environmental impact of the project is then not attached to the application. The authority may issue a decision, if any, indicating the need for a report and its scope. The project outline specification is to enable the authorities to decide on the necessity of conducting an environmental impact assessment of an investment.

[76] Ordinance of the Council of Ministers of 10 September 2019 on investments likely to have a significant impact on the environment (Journal of Laws item 1839, as amended) (in Polish: Rozporządzenie Rady Ministrów z dnia 10 września 2019 r. w sprawie przedsięwzięć mogących znacząco oddziaływać na środowisko (Dz. U. poz. 1839 ze zm.)).

Depending on the type of investment in the process of issuing a decision on environmental conditions, the authority consults such authorities as:

- the regional director of environmental protection;
- the authority of the State Sanitary Inspectorate;
- the director of the regional board of water management of Polish Waters;
- the authority competent to issue an integrated permit if the planned project is qualified as an installation requiring this permit.

A decision on environmental conditions may constitute the basis for an entity to apply for, inter alia, a building permit or a zoning decision within six years of the decision becoming final. All documents and permits throughout the whole construction process must be compliant with the conditions set in the decision on environmental conditions.
In certain cases, it is also necessary to obtain certain other permits related to environment protection, such as emissions permits – related to the usage of installations emitting pollutions to air and water.

INTEGRATED PERMIT

An integrated permit is a decision that specifies the rules for using the environment. The decision is required for installations that fall into the group of those likely to cause significant pollution of individual natural elements, or the environment as a whole. Such installations are most often used in the case of energy production and fuel combustion, metal production and processing, in enterprises in the chemical, mineral, waste management and agricultural sectors.
The types of installations requiring an integrated permit are defined in the Ordinance of the Minister of the Environment of 27 August 2014 on the types of installations that may cause significant pollution of specific natural elements or the environment as a whole (Journal of Laws, item 1169)[77].
As a rule, the decision on environmental conditions is required before granting an integrated permit. Hence, an integrated permit should be obtained before using the building or installation.

The significance of the integrated permit is that it combines in a single document the conditions for the use of all environmental components, in connection with the size of a specific installation.

The integrated permit replaces partial environmental permits for installations, such as:

- permits for the introduction of gases or dust into the air;
- a waste generation permit;
- a water permit for the introduction of wastewater into water or land;
- a water permit for water abstraction.

In addition, the integrated permit sets conditions for the use of the environment in aspects that are not regulated by sectoral permits, e.g. noise emissions.
The authority's jurisdiction over the integrated permit depends on the type of installation being operated. In most cases, the integrated permit is issued by the marshal of the voivodship where the installation is located. For some activities (e.g. installations in the food industry, printing industry), the integrated permit is issued by the locally competent Starost.
The decision is issued within six months.

WATER PERMITS

Certain investments may require that a water permit be obtained or for the relevant water authority to be notified. A water permit authorizes the special use of water and the performance of water facilities, such as the introduction of wastewater into water and land. The authority issuing a water permit varies depending on the type of investment. It could be the Director of the Polish Water Authority's Basin Management Board, the Director of the Regional Water Management Board of the Polish Water Board, or the Minister in charge of water management.

Before obtaining a water permit, a promise to issue such permit may be obtained from the relevant authority. Such a promise is issued for at least one year. During the period of its validity, a unit of the Polish Water Authority cannot refuse to grant a water permit or grant such a permit to another facility. The rules for obtaining a promise are similar to those for obtaining a water permit. The application should be submitted to the water authority which is either locally competent or closest to where the investment will be conducted. The water permit must be obtained by the investor before a building permit.

[77] In Polish: rozporządzenie Ministra Środowiska z dnia 27 sierpnia 2014 r. w sprawie rodzajów instalacji mogących powodować znaczne zanieczyszczenie poszczególnych elementów przyrodniczych albo środowiska jako całości (Dz. U. poz. 1169).

Obtaining a water permit is required, i.a., for investments related to:

- water services, e.g. abstraction of underground or surface water; introduction of wastewater (even treated wastewater) into waters or land, or into water facilities;
- special use of water, e.g., drainage of land and crops, irrigation of land or crops;
- long-term lowering of the groundwater level;
- reclamation of surface water or groundwater;
- construction of water facilities, e.g. damming, flood control and regulatory devices or structures, as well as canals and ditches.

CHANGE OF USE AND EXCLUSION OF LAND FROM AGRICULTURAL OR FORESTRY PRODUCTION

Each real estate has its designation in the land and building register, which is maintained for the entire territory of Poland. One real estate may consist of land having different designations. The designation of real estate has a profound impact on how the land may be used and developed. Therefore, before acquiring real estate, its designation in the land and building register should be verified in each case. Attention should be paid, in particular, to agricultural and forestry land (including their classes).

1.CHANGE OF USE OF LAND

As a rule, land designated in the land registry as wasteland and, in their absence, other land of the lowest production use may be used for non-agricultural and non-forestry purposes. However, at times investments are planned on property that constitute agricultural or forestry lands a change of use of the land is required before the investment can commence.
The use of agricultural/forestry land for non-agricultural and non-forestry purposes requires the following approvals:
• in case of agricultural land of classes I to III – as a rule, the consent of the Minister of Agriculture and Rural Development (in Polish: Minister Rolnictwa i Rozwoju Wsi) is necessary,
• in case of forestry lands owned by the State Treasury – the consent of the Minister of Climate and Environment (in Polish: Minister Klimatu i Środowiska) is necessary,
• in case of other forestry lands – the consent of the marshal of the voivodship (in Polish: marszałek województwa) after obtaining an opinion of the chamber of agriculture is required.
The consent of the authorities indicated above should be given at the request of the head of the municipality (respectively the mayor), to which opinions of the relevant authorities should be attached.
As a rule, if the abovementioned consent is required, the designation of agricultural and forestry lands for non-agricultural and non-forest purposes must be established in that zoning plan. If such designation is not provided in a zoning plan currently in force, a change of the use of land requires an adoption of amendment to the zoning plan, which is a lengthy process. The above rule does not apply to the areas for which such a plan is not prepared.
The above does not apply to agricultural land located within the administrative boundaries of cities. This means that the approval of the Minister responsible for rural development is not required for the designation of such land for non-agricultural and non-forest purposes, and such designation does not have to take place in the zoning plan.

2. EXCLUSION OF A LAND FROM AGRICULTURAL OR FORESTRY PRODUCTION

Prior to the commencement of any investment on agricultural or forestry lands, it will be necessary to exclude agricultural land from agricultural production (in Polish: wyłączenie gruntów rolnych z produkcji rolniczej) and forestry land and forestry production (in Polish: wyłączenie gruntów leśnych z produkcji leśnej)[78]. Such exclusion determines the possibility of non-agricultural/non-forestry use of the land. Whether it is required to obtain a decision that authorises the exclusion of agricultural land from agricultural production depends on the class of land on which the investment is planned. If required, the decision on the exclusion of forest land from production must be obtained before applying for a building permit.

The exclusion of agricultural lands of mineral and organic origin classified as class I, II, III, IIIa, IIIb and agricultural lands of class IV, IVa, IVb, V, VI formed from soils of organic origin from agricultural production, may take place after the Starost (in Polish: Starosta) issues a decision permitting such exclusion. With respect to agricultural lands of classes IV, IVa, IVb, V, VI formed from soils of organic origin, the decision to exclude them from agricultural production is declaratory, while in such a case the legal effect in the form of exclusion of those lands from agricultural production occurs on the date of non-agricultural use of lands. The authority may not refuse to exclude such lands from agricultural production and does not impose any obligations related to the exclusion on the concerned party.

The exclusion of forestry lands from forestry production may take place after the Director of Regional Directorate of State Forests (in Polish: Dyrektor Regionalnej Dyrekcji Lasów Państwowych) issues a decision permitting such exclusion.

The entity that has been granted permission to exclude land from agricultural and forestry production is obliged to pay a one-off fee and annual fees. Such an obligation occurs from the date the land is actually excluded from production, that is, other than agricultural or forestry use of the land begins. Therefore, the land on which the investment is not carried out will not actually be excluded from production, so no obligation to pay will arise. As one piece of real estate may consist of lands having different designations, the fees will only apply to forest and agricultural land developed in connection with the investment project. The one-off fee is a payment for the permanent exclusion of agricultural land from agricultural production and is calculated in proportion to the area of land excluded from such production and its class. The one-off fee for exclusion of forestry production is based on forest habitat type and forest function. The one-off fee is reduced by the value of the land, determined according to the market prices used in the real estate transactions in a given city, on the day the land is actually excluded from production. The annual fees are payable for 10 years, each amounting to 10% of the one-off fee.

The tables below show the one-off fees for excluding 1 ha of land from production:

- In case of lands defined in the land register as agricultural land, under agricultural buildings and other buildings and installations used exclusively for agricultural production and agri-food processing and country parks and mid-field trees and bushes:

Arable land and orchards, under buildings and facilities forming part of agricultural enterprises and under mid-field trees and bushes		**Meadows and permanent pastures, under buildings and equipment forming part of agricultural holdings and under mid-field trees and bushes**	
Class	Fee (in PLN)	Class	Fee (in PLN)
Formed from soils of mineral and organic origin			
I	437 175	Ł i Ps I	437 175
II	378 885	Ł i Ps II	361 398
IIIa	320 595	Ł i Ps III	291 450
IIIb	262 305		
Formed from soils of organic origin			
IVa	204 015	Ł i Ps IV	174 870
IVb	145 725	Ł V	145 725
V	116 580	Ps V	116 580
VI	87 435	Ł i Ps VI	87 435

The payment for the exclusion from production of country parks and land under buildings and facilities used directly for agricultural production recognised as a special section pursuant to the provisions on personal income tax and corporate income tax, as well as under access roads to agricultural land, is established as for land under buildings and facilities forming part of agricultural holdings and land under mid-field trees and bushes.

[78] Act of 3 February 1995 on the Protection of Agricultural and Forest Land (uniform text Journal of Laws of 2022, item 2409) (in Polish: ustawa z dnia 3 lutego 1995 r. o ochronie gruntów rolnych i leśnych (t.j. Dz. U. z 2022 r. poz. 2409)).

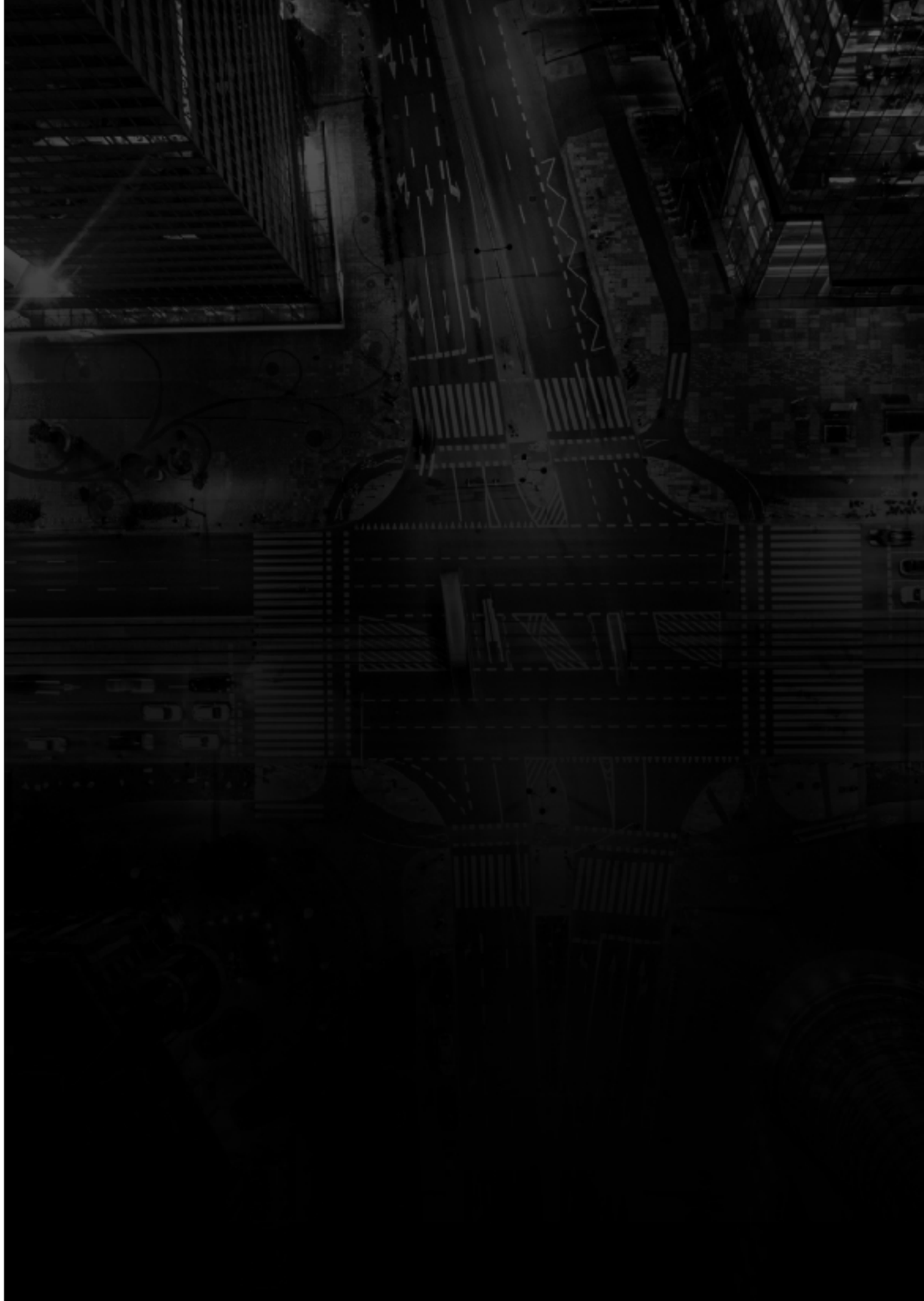
• In case of forest land without standing timber

No.	Forest habitat types	The equivalent of the price of 1 m3 of wood as announced by the Central Statistical Office
1.	Forests: fresh, humid, riparian and mountainous, ash alder and mountain alder (in Polish: Lasy: świeży, wilgotny, łęgowy i górski oraz ols jesionowy i ols górski)	2 000
2.	Mixed forest: fresh, humid and swamp, upland, mountain and alder woodland (in Polish: Lasy mieszane: świeży, wilgotny i bagienny, wyżynny, górski i ols)	1 500
3.	Mixed forest: fresh, humid, swamp, upland and montane (in Polish: Bory mieszane: świeży, wilgotny, bagienny, wyżynny i górski)	1 150
4.	Forest: fresh, humid, mountainous (in Polish: Bory: świeży, wilgotny, górski	600
5.	Forests: dry and swamp (in Polish: Bory: suchy i bagienny)	250

In protected forests, fees are 50% higher than those indicated above.

- Land under fishponds and for the lands of family allotment gardens and botanical gardens, under facilities for: water reclamation, flood and fire protection, water supply to agriculture, sewerage systems and sewage and waste disposal for the needs of agriculture and the rural population, reclaimed for agricultural purposes, as well as peat bogs and ponds: PLN 233 160.

In the case of sale of land that has already been granted a decision permitting its exclusion from agricultural production/forestry production, but has not yet been actually excluded therefrom, the obligation to pay the one-off fee and the annual fees will be borne by the purchaser who will actually exclude the land from agricultural production/forestry production.



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