

INSTRUCTION TO THE NATIONALS OF THE EUROPEAN UNION MEMBER STATES AND THEIR FAMILY MEMBERS

General issues

Matter concerning the stay of Union citizens in the Republic of Poland shall be settled immediately, and matters concerning their family members who are not Union citizens – no later than within 6 months from the day of submission of an appropriate application.

Applications shall be written in the Polish language on the official forms. Documents drawn up in the Polish language, attached to the application, shall be submitted with their translations into the Polish language by a sworn translator.

All letters (notifications, summons, decisions, rulings etc.) shall be delivered upon receipt by post, or alternatively by officers of the bodies conducting the proceedings.

The letters are delivered to you or to the proxy (if appointed).

In case of impossibility to deliver a letter to you or an adult, it shall be kept by the post office for 7 days, and a notification of this fact shall be placed in your mailbox or, if not possible, on the door of the addressee's flat. The letter shall be considered delivered with the elapse of this period.

The receipt of the letter shall be confirmed by your signature, with the indication of the date of delivery. Should you evade confirmation of receipt, the deliverer shall independently pronounce the date of delivery and indicate the person who collected the letter as well as the reason for the lack of his/her signature.

Should you refuse to accept the letter sent to you by mail or delivered in other ways, the letter shall be returned to the sender with the annotation of the refusal to accept it and the date of refusal. In such case it is assumed that the letter was delivered on the day of refusal of its acceptance by the addressee.

Each change of the place of residence shall be notified to the body, before which the proceedings are conducted. During the proceedings, letters are always sent to the address for correspondence, which has last been indicated to a given body.

Should your address change and the body conducting the proceedings fail to be notified, the letter will be sent to the last address for correspondence you indicated. Pursuant to the provisions of the Code of Administrative Procedure, a letter sent this way is considered effectively delivered too, if you no longer reside under the address indicated and on that account you have not read the content of the letter.

Negligence of the obligation to notify the change of address of residence may have serious consequences to you, e.g.:

- leaving the application without identification,
- decision of the competent body may become indisputable, if due to lack of notification of the change of address you fail to meet the deadline for pursuing appeal to the decision of the body of 1st instance or a complaint about the decision of the body of 2nd instance to the Regional Administrative Court in Warsaw.

The bodies of 1st or 2nd instance, prior to issuing a decision, may summon you to appear personally in order to proffer explanation of significant circumstances necessary to issue the decision.

Any negative decisions in matters regulated in the Act on the entry into the territory of the Republic of Poland, stay and exit from such territory of nationals of European Union Member States and members of their families shall be delivered in writing with a justification.

Special attention should be paid to the instruction accompanying each decision, concerning measures of appealing, including the dates stated. Only before those dates will you be able to appeal against the decision of the body of 1st instance, or alternatively a make complaint to the Regional Administrative Court in Warsaw about the decision of the body of 2nd instance.

The Union citizen and his/her family member staying outside the hotel centre, centre providing living quarters with relation to work, education, treatment or leisure shall register his/her stay no later than on the fourth day, counting from the moment of crossing the border of the Republic of Poland.

Entering and stay within the territory of the Republic of Poland for up to 3 months

The Union citizen may enter and reside in the territory of the Republic of Poland on the basis of a valid travel document or another valid document certifying his/her identity and citizenship.

A family member who is not a Union citizen may enter the territory of the Republic of Poland on the basis of a valid travel document or a visa, if required. During the stay within the territory of the Republic of Poland for up to 3 months, the family member who is not a Union citizen shall have a valid travel document.

The visa application submitted to stay with or join the Union citizen shall be submitted by his/her family member who is not a Union citizen to consul or a commander of Border Guards.

The decision to refuse entrance to the territory of the Republic of Poland may be issued by the Commander of Border Guards, if your data are included in the register of foreign nationals, the stay of whom within the territory of the Republic of Poland is undesired or who lack a valid travel document or another valid document certifying his/her identity and citizenship.

In case of absence of the above mentioned documents, you can certify your right to exercise the freedom of movement of persons in another way, under the condition that it opens no doubts. Before issuing the decision to refuse entry due to the absence of the above mentioned documents, the Commander of Border Guards shall enable for a period of no longer than 72 hours obtaining the documents or certify in another way, under the condition that it opens no doubts, that you have the right to freedom of movement of persons.

The decision to refuse entry may be appealed to the Commander of the Border Guard Unit.

A Union citizen may exit from the Republic of Poland on the basis of a valid travel document or another document certifying his/her identity and citizenship.

A family member who is not a Union citizen may exit from the Republic of Poland on the basis of a valid travel document.

Right to stay for over 3 months

The Union citizens shall have the right to stay in the Republic of Poland for the period no longer than 3 months, if:

- (1) he/she is an employee or a self-employed person in the territory of the Republic of Poland (in this case the right to stay extends over the family member staying in the Republic of Poland with the Union citizen);
- (2) he/she is covered by the general health insurance or is a person entitled to health insurance or is a person entitled to health insurance benefits on the grounds of the provisions on coordination within the meaning of Article 5 (23) of the Act of 27 August 2004 on health insurance benefits financed from public funds (Dz.U. No. 210 item 2135, as amended) and is in possession of enough funds to provide for himself/herself and his/her family members in the territory of the Republic of Poland without the need to make use of social insurance benefits (in this case the right to stay extends over the family member staying in the Republic of Poland with the Union citizen);
- (3) he/she studies or undergoes vocational training in the Republic of Poland and is covered by general health insurance or is a person entitled to health insurance or is a person entitled to health insurance benefits on the grounds of the provisions on coordination within the meaning of Article 5 (23) of the Act of 27 August 2004 on health insurance benefits financed from public funds and is in possession of enough funds to provide for himself/herself and his/her family members in the territory of the Republic of Poland without the need to make use of social insurance benefits (in this case the right to stay extends over the spouse and child supported by the Union citizen or his/her spouse and those staying with him/her in the Republic of Poland);
- (4) he/she is married to a Polish national;

or if he/she has a promise of employment permit in the territory of Republic of Poland, in case of Union citizen against whom the limitations in the access to labour market apply pursuant to international agreements.

The Union citizen and his/her family member who ceased to meet the above mentioned conditions shall maintain the right to stay in cases determined in detail in the Act of 14 July 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members (Dz.U. No 144, item 1043), of professional or family nature.

If the residence in the territory of the Republic of Poland lasts for more than 3 months, the Union citizen shall be obliged to register his/her residence and the family member who is not a Union citizen shall be obliged to obtain the Union citizen family member residence card.

The application for registration or issuance of the residence card of a member of the Union citizen's family shall be submitted personally to the voivod competent for the place of residence of the Union citizen no later than on the next day after the deadline of 3 months from the day of entry to the territory of the Republic of Poland.

The application shall be accompanied by documents or written statements confirming the fulfilment of residence requirements and in the case of the request to issue a residence card of a member of the Union citizen's family it shall be accompanied also by photographs.

A valid travel document shall be presented upon submission of the request to register the residence or to issue a residence card of a member of the Union citizen's family. A Union citizen may present other valid document which confirms his/her identity and citizenship.

The voivod shall immediately issue a certificate of submission of the application to the family member who is not a Union citizen.

The voivod shall issue a certificate of registration of residence to the Union citizen, whose residence has been registered. You shall present a valid travel document or another document certifying your identity and citizenship as well as the proof of payment of a sum of PLN 1 at the receipt of the certificate.

Residence card of a member of the Union citizen's family is issued by the voivod. You shall present a valid travel document and the documents certifying payment of the fee of PLN 30 at the receipt of the residence card.

The Union citizen or his/her family member shall apply to the voivod competent for the place of residence for the replacement of the certificate on registration of Union citizen residence or the residence card of the Union citizen's family member in case of amendments of data included or destruction.

When submitting an application for replacement or issuance of a new certificate of registration, a valid travel document or another document certifying his/her identity and citizenship shall be presented.

When submitting an application for replacement or issuance of a new residence card of the Union citizen's family member, a valid travel document shall be presented and the residence card of the Union citizen's family member in possession as well as photographs shall be attached to the application.

In case of annulment of the residence card of the Union citizen's family member or death of the family member the said documents shall be returned immediately to the authority that issued the card.

Right of permanent residence

The Union citizen shall obtain right of permanent residence after five years of continuous residence within the territory of Republic of Poland.

The family member who is not a Union citizen shall obtain right of permanent residence after five years of continuous residence within the territory of Republic of Poland with Union citizen.

The residence within the territory of Republic of Poland is considered to be continuous if the intervals in the residence do not exceed total of 6 months in a year. The residence within the territory of Republic of Poland is not interrupted by intervals longer than mentioned above for the purpose of compulsory military service or crucial individual situation, especially pregnancy, childbirth, illness, periods of studies, vocational training, delegations that requires the residence outside territory of Republic of Poland if the interval does not exceeds the period of 12 consecutive months.

The residence within the territory of Republic of Poland is interrupted by execution of the decision to expel the Union citizen or family member who is not a Union citizen.

The Act on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members defines in detail the possibility of granting the right of permanent residence before the elapse of the period of 5 years of residence in the territory of the Republic of Poland, in exceptional cases of professional or family nature.

The Union citizen who obtained the right of permanent residence is given a document certifying the permanent residence right based on the application of Union citizen. The application shall be submitted in person to the voivod competent for the place of residence of the Union citizen.

A family member who is not a Union citizen, and that obtained the right of permanent residence, shall be provided, on his/her request, with a permanent residence card of a family member of a Union citizen. The application shall be submitted in person to the voivod competent for the place of residence of the Union citizen before the term of validity of permanent residence card of family member of Union citizen expires.

The application for the issuance of a document certifying the right of permanent residence or permanent residence card of Union citizen family member shall be accompanied by photographs and a valid travel document shall be presented. The Union citizen may present another document certifying his/her identity and citizenship.

While collecting document certifying right of permanent residence or permanent residence card of the Union citizen family member you shall present a valid travel document or another document certifying your identity and citizenship together with the documents certifying payment of the fee of PLN 30.

The Union citizen of his/her family member shall apply to the voivod competent for the place of residence for replacement of the document certifying the right of permanent residence or permanent residence card of the Union citizen family member in case of amendments of data included, damage or other circumstances that make establishment of a holder identity difficult or the validity period of the document expires.

When submitting application for the replacement of a document certifying the right of permanent residence, the document certifying the right of permanent residence in possession and photographs shall be attached, and in case of its loss, a valid travel document or another document certifying his/her identity and citizenship shall be presented.

When submitting the application for replacement the permanent residence card of the Union citizen family member, a permanent residence card of the Union citizen family member in possession and photographs shall be attached, and in case of its loss, a valid travel document shall be presented.

In case of annulment of the document certifying the right for permanent residence or permanent residence card of the Union citizen's family member or death of the family member the said documents shall be returned immediately to the authority that issued the card.

Persons who:

- (1) fail to fulfil the obligation to register stay in the territory of the Republic of Poland,
 - (2) evade the obligation to hold or replace the residence card of a Union citizen's family member or a permanent residence card of a Union citizen's family member,
 - (3) contrary to the obligation, fail to return the residence card of a Union citizen's family member, the document certifying the right for permanent residence or the permanent residence card of the Union citizen's family member
- shall be punishable by a fine.