



Dać radę
w Polsce

Informacja i pomoc
prawna dla migrantów

Social Assistance and Legal Protection

Prof. dr hab. Irena Rzeplińska
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How to Make It in Poland Information Brochure for Foreigners

Social Assistance and Legal Protection

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How to Make It in Poland – Information Brochure for Foreigners. Social Assistance and Legal Protection

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Introduction

Foreigners living in Poland due to their work and/or studies, starting a family, planning to stay permanently – all of them need information about dealing with everyday formalities.

This publication updates a part of the information package published as part of the project: “Migrants in Poland – Information and Legal Assistance” co-financed by the European Fund for the Integration of Third-Country Nationals. The first section of this brochure describes practical issues related to obtaining benefits from the social assistance system. For foreigners, who rebuild their lives in Poland, the assistance may prove necessary – sometimes on a single occasion, other times for a longer period of time. The requirements for enjoying and obtaining benefits from the social assistance system are therefore important and useful information. A foreigner living in Poland should also know how the judicial system is organised, what rights a victim to a crime is entitled to and how to claim their rights, i.a. if they are discriminated against. In addition, the brochure presents basic information concerning applications and proceedings before the European Court of Human Rights. It also explains the competences and the scope of activities of two ombudsmen: the Polish Ombudsman and the Ombudsman for Children. With such information, it is easier for all those who have come to Poland from far away to operate in the modern world and the Polish society.

Prof. dr hab. Irena Rzeplińska

Social assistance

1. **Are you entitled to social assistance benefits?**
2. **When are you entitled to social assistance?**
3. **What are the types of social assistance benefits?**
4. **Who is entitled to a permanent benefit?**
5. **When can a temporary benefit be granted?**
6. **When may an appropriated benefit be granted?**
7. **Who is entitled to shelter, meal and clothing?**
8. **How can I receive a social assistance benefit?**



1. Are you entitled to social assistance benefits?

You are entitled to social assistance benefits if you are residing in Poland based on i.a.:

- ➔ permit to settle (permanent stay),
- ➔ permits for stay of a long-term resident in the European Union, refugee status or subsidiary protection,
- ➔ permit for tolerated stay (than you are only entitled to assistance in form of shelter, meal, necessary clothing and appropriated benefit),
as well as
- ➔ if you are a family member of a citizen of the European Union Member State, Switzerland, Norway, Iceland or Lichtenstein and hold a stay permit or a permanent residence permit in Poland.

Also a foreigner, who is a victim of human trafficking, is entitled to benefits in form of crisis intervention, shelter, meal, necessary clothing and appropriated benefit.

2. When are you entitled to social assistance?

You are entitled to social assistance in particular in the case of:

- Poverty,
- Orphanhood,
- Homelessness,
- Unemployment,
- Disability,
- Long or serious disease,
- Domestic violence,
- Need to protect motherhood or large family,
- Helplessness in care and educational matters as well as household maintenance, in particular in incomplete and large families,
- Lack of skills in adapting young people leaving 24/7 care and educational facilities to life,
- Difficulties in adapting to life following a release from a penitentiary institution,
- Alcoholism or drug addiction,
- Chance event or crisis situation,
- Natural or ecological disaster.

3. What are the types of social assistance benefits?

There are two types of benefits: monetary and non-monetary.

Monetary benefits are:

- Permanent benefit,
- Temporary benefit,
- Appropriated benefit and special appropriated benefit,
- Allowance and credit for the purpose of gaining economic independence,
- Monetary benefit for a living and covering expenses related to learning Polish by foreigners who were granted a refugee status or subsidiary protection in Poland,
- Assistance for the purpose of emancipation and continuing education.



Non-monetary benefits are:

- Social work,
- Funded ticket (may be granted to persons without income or very low income who must go to another city or town in order to settle family or official matters),
- Health insurance contributions,
- Social insurance contributions,
- Assistance in kind, including for the purpose of economic emancipation,
- Arranging a funeral,
- Specialist counselling,
- Crisis intervention,
- Shelter,
- Meal,
- Necessary clothing,
- Care services in a place of living, in support centres and family care homes,
- Specialist care services in a place of living or in support centres,
- Protected housing,
- Stay and services in a social assistance home,
- Assistance in obtaining suitable residential conditions, including in protected housing, assistance in getting a job, assistance in running one's own household – in kind for persons supported into independent living.

4. Who is entitled to a permanent benefit?

Permanent benefit may be granted to a person of full age who runs their own household independently or stays with a family, is incapable of working due to their age or completely incapable of working if their income is lower than the income criterion, i.e. PLN 542¹.

5. When can a temporary benefit be granted?

The temporary benefit may be granted in particular due to a long-term disease, disability, unemployment to a person running a household alone or staying with a family whose monthly income is lower than the income criterion.

6. When may an appropriated benefit be granted?

The appropriated benefit may be granted in order to satisfy a necessary need, in particular to cover all or some purchasing costs of food, medicines and treatment, firewood, clothing, necessary household appliances, minor renovations and repairs in a house as well as costs of a funeral. It may be granted in form of a funded ticket.

¹ Status as at 22 October 2013

7. Who is entitled to shelter, meal and clothing?

You will be entitled to shelter, meal and clothing if you cannot provide them for yourself. Shelter is given in form of a temporary accommodation in a dormitory, a shelter, a home for the homeless and other places provided for this purpose. Necessary clothing is provided by delivering underwear, clothes and shoes suitable for your individual needs and a time of year. Emergency or temporary assistance may be provided in form of one warm meal per day if you cannot provide it for yourself.

8. How can I receive a social assistance benefit?

Social assistance benefits are granted at your request, the request of your statutory representative or another person with your or your statutory representative's consent. Social assistance may be provided ex officio. Social assistance is provided by a social assistance centre competent for your place of residence. This means that you cannot apply for assistance in any social assistance centre.

Legal protection – selected issues

1. **Judicial system in Poland**
2. **Crimes**
3. **Protection against discrimination**
4. **Application to the European Court of Human Rights**
5. **Polish Ombudsman**
6. **Polish Ombudsman for Children**



1. Judicial system in Poland

When you reside in Poland, you are entitled to a just and public case trial without unreasonable delay by a competent, independent and impartial court. The right is provided for in the Constitution of the Republic of Poland (Constitution of Poland) and the Convention for the Protection of Human Rights and Fundamental Freedoms that Poland is a party to.

1.1. Types of courts

Justice in Poland is exercised by: Supreme Court, common courts (district, regional, and appellate courts), administrative courts (voivodship administrative courts, Supreme Administrative Court).

1.1.1. Supreme Court

The Supreme Court supervises common courts within the scope of adjudicating, examining cassations in criminal proceedings and cassation appeals in civil proceedings. This means that the Court verifies whether (district, regional and appellate) courts applied provisions of law correctly in given proceedings. It is not always possible to file a cassation appeal or a cassation. The documents must be drawn up and signed by an attorney or a legal counsel.

1.1.2. Common courts – district, regional, appellate

District, regional and appellate courts are common courts. The courts settle matters of various kinds: civil, family, adolescent, labour law and social insurance, economic, bankruptcy, criminal, delinquency and penitentiary proceedings. They also keep land and mortgage registers. In addition, a court may be divided into individual divisions, e.g. civil, criminal, family and adolescent divisions that deal with certain types of cases. When you write a document for a court, it is of utmost importance to specify to which division it is addressed to – this will certainly have an impact on the time of examining your suit or application.

The court procedure consists of two instances, so if you are not satisfied with the resolution of the case by a court of first instance, you have the right to file an appeal against a sentence to a court of second instance. The court of second instance (court of appeal) may uphold or amend the appealed decision. It can also revoke the appealed decision and remand the case to be re-examined by the court of first instance. A district or regional court – depending on the case type – is the court of first instance. For the procedure before a court to commence, it is necessary to file a procedural document – a suit, an indictment to a competent court. A suit may be filed directly to a court or sent by registered mail. A court in the place of residence of the respondent is mostly the court competent for civil cases and a court in the place where an offence is committed is a court competent for criminal cases.

District courts

are located in all larger cities and towns. There are a few district courts for one or more districts in large cities, e.g. in Warsaw, Łódź or Cracow. District courts are courts of first instance in all cases that are not restricted to regional courts.

Regional courts

are located in larger cities. They are both courts of second instance (they consider appeals against decisions of district courts) and courts of first instance, e.g. in cases related to the most serious crimes, in cases related to copyrights, in cases related to property rights (in which the value of the disputed object exceeds PLN 75,000) as well as in cases related to divorce, separation, adoption of a child, incapacitation.

Appellate courts

are exclusively courts of second instance and consider appeals against decisions of district courts issued in the first instance.



Polish is the official language before common courts. If you do not know Polish well enough, you have the right to use the assistance of an interpreter.

A complete list of common courts including addresses and telephone numbers is available on the website of the Ministry of Justice (www.ms.gov.pl).



1.1.3 Administrative courts

Administrative courts supervise public administration authorities (e.g. Council on Refugees' Affairs, Head of the Office for Foreigners). They verify whether provisions of law have been correctly applied in a given case. They are courts competent for many cases related to the residence of foreigners in Poland, such as cases related to permits for stay or decisions on expelling. The procedure before administrative courts consists of two instances.

Voivodship Administrative Courts

Voivodship Administrative Courts, of which there are 14 in Poland, are courts of first instance. They consider complaints with regard to decisions, adjudications and the inactivity of administrative authorities. The complaint is to be filed to a court competent for the registered office of the administrative authority that issued the appealed decision or adjudication, e.g. in the case of a complaint against a decision of the Head of the Office for Foreigners with a registered office in Warsaw, the Voivodship Administrative Court in Warsaw will be a competent court.

The complaint should be filed or sent to an authority of second instance. The authority examines the complaint and can declare it admissible or not. If the authority does not agree with the arguments presented in the complaint, it sends it to the Voivodship Administrative Court together with its response to the complaint.



All documents addressed to authorities should be sent by registered mail. Make sure you keep the receipts confirming that a letter has been sent – they prove that you have filed the document.

An administrative court cannot change an appealed decision. It can, however, do the following:

- ➔ Dismiss the complaint (if it finds that a decision has been issued in accordance with the provisions of law),
- ➔ Declare the appeal admissible and revoke the decision or adjudication (the case is then re-examined by an administrative authority),
- or
- ➔ Declare the decision/adjudication invalid or find that they have been issued in violation of law,
- ➔ Find the inactivity/unreasonable length of the proceeding or find that there was no inactivity/unreasonable length of the proceeding.

A cassation appeal may be filed against the judgment of the Supreme Administrative Court or an adjudication issued by the Supreme Administrative Court ending the procedure to the Supreme Administrative Court. The appeal must be drawn up and signed by an attorney or a legal counsel.



2. Crimes

2.1. What to do if you are a victim to a crime?

The police and the prosecutor's office investigate crimes and prosecute the criminals irrespectively of the fact whether a Pole or a foreigner is a victim or an offender. That is why you should inform the police or the prosecutor's office if you are a victim to a crime. Such information is called a notice of an offence which may be filed in any form: orally (e.g. by telephone or personally to a police station or a prosecutor's office – the reporting person is then heard as a witness and a report of such a conversation is required to be drawn up) or in writing (a document presenting the incident may be sent by post or left at a police station or in a prosecutor's office).

If you do not know the Polish language, the police or a prosecutor are obligated to translate your testimony or written notice into Polish.

2.2. What are crimes prosecuted ex officio and crimes prosecuted upon motion?

There are:

→ crimes prosecuted ex officio –

are crimes that the police and the prosecutor are obliged to prosecute if they have been in any way informed that a crime has been committed (by the victim, a witness or through media). They include e.g.: homicide, robbery, battery, abuse, human trafficking, bribery as well as so called hate crimes (committed against persons due to their nationality, race, religion etc.). In this case, it is enough to give a notice of crime – no further steps are required so that the law enforcement authorities can initiate proceedings to solve a given case;

→ crimes prosecuted upon motion –

in the case of a crime of this type, you are also required to file a **motion to prosecute**, i.e. a letter from which it results that you want law enforcement authorities (police, prosecutor) to prosecute the case. Without that motion, the police and the prosecutor cannot undertake any activities in order to solve the matter. However, if the motion is filed, the proceedings are initiated in the same manner as in the case of crimes prosecuted ex officio.

A filed motion to prosecute may be withdrawn. A withdrawal of a motion to prosecute is then recorded. It is only possible with the consent of appropriate authorities (prosecutor's office, court) – the proceedings are discontinued then.

Following the withdrawal of a motion, it cannot be filed again.

2.3. Will the police deal with the reported matter?

If you have reported a notice of crime, you must be informed about the initiation or a refusal to initiate proceedings by the police and the prosecutor.

The proceedings of the police and the prosecutor, i.e. the so called preliminary proceedings, are not public and you will not be informed about its progress on an ongoing basis. If you receive a decision on a refusal to initiate proceedings, you are entitled to file a complaint against the decision in this matter. The decision will include information about the date and manner of filing a complaint. A preliminary proceedings end upon an indictment. From that time, the case is tried before a court.



If you draw up documents during preliminary proceedings, it is recommended to place a case file number in those documents.

There is a sample complaint on the website of the Ministry of Justice available for downloading.

2.4. Can you have an attorney and what to do if you cannot afford such assistance?

During the proceedings before the police, a prosecutor and a court, you can be represented and supported by an attorney or a legal counsel (representative). The representative acts on your behalf (if you are a victim). If you cannot afford to pay for a representative of your choice, you can apply for having an attorney ex officio. In order for the court to approve the application, you must meet two conditions: 1) you cannot use the assistance of a representative of your choice and 2) you need to prove that you are not able to cover the costs of representation without prejudice to providing for yourself and your family as necessary.

2.5. What are hate crimes?

A hate crime is a crime motivated by an offender's prejudices against a person or a group of persons due to their racial, ethnic, racial, political, religious origin or due to irreligiousness. Each constitutes a separate crime (e.g. a threat, battery, public insult), is subject to punishment and prosecuted ex officio (see point 2.2).

This is why it is important to explicitly inform the law enforcement authorities, when reporting a crime, what a given crime was related to, e.g. skin colour, origin or religion of the victim. This will enable a correct legal classification of a crime committed, thanks to which offenders will be held responsible for committing a hate crime and not e.g. for a "simple" battery. It will have an impact on an adequate (stricter) treatment of a criminal.

2.6. If you have been charged

If you are a suspect or have been charged with a crime and do not know Polish well enough, you are entitled to use a free assistance of an interpreter. This means that an interpreter must be invited to all actions in which you participate (e.g. hearing) and a decision to present, supplement or change charges, an indictment and a ruling subject to appeal or ending proceedings must be delivered to you together with their translation. If a ruling ending proceedings is subject to appeal, it is enough - with your consent - to pronounce a translated ruling.

If you cannot afford to cover the costs of an attorney of your choice, you are also entitled to apply to the court for a court-appointed defender if you can prove that you are not able to cover the costs of defence without prejudice to providing for yourself and your family as necessary.

3. Protection against discrimination

3.1. What is discrimination?

Discrimination is differentiating your circumstances or rights without any objective reasons, unequal, unjustified treatment in comparison to other people in a similar situation due to sex, race, ethnic origin, nationality, religion or faith, world views, political views, age, sexual orientation, marital and family status. For instance, one person receives a lower salary from the employer than other employees but has the same obligations, competences, length of employment etc. Discrimination is also refusing or impeding a person's access to work, education, services or other social welfare. The above mentioned cases refer to direct discrimination.

Examples of discrimination include: jokes about religion, nationality, ethnic origin of an employee, training provided only to young employees or only to old employees, a demand that women sign a declaration that they will not get pregnant or married, laying off a homosexual person due to their sexual orientation.

There also is indirect discrimination - when seemingly neutral conditions, criteria or practices are in effect adverse to a given person or group. These are criteria which are not objectively reasonable. For instance, the criterion of age may be considered reasonable when issuing a driver's license (as it is only issued to persons of legal age) and the criterion of ownership is unreasonable (if a driver's licence is only issued to car owners).

**Discrimination is forbidden
by law in Poland and the
European Union.**



Everybody is equal before the law and have the right to be equally treated by public authorities. Nobody can be discriminated against in the political, social or economic life for any reason. All such acts of discrimination violate the principle of equal treatment and fundamental human rights and freedoms.

Every person who resides in Poland can benefit from rights and freedoms guaranteed in the Constitution of the Republic of Poland. There may be exceptions to this rule that relate to foreigners but they must be specified in an act, e.g. access to the labour market.

3.2. Discrimination at work

The Labour Code provides for an explicit ban on direct and indirect discrimination in employment due to sex, disability, race, religion, nationality, political views, union membership, ethnic origin, faith, sexual orientation as well as due to employment for a specified or unspecified period of time and on full-time or part-time basis.

As one of manifestations of discrimination, the Labour Code enumerates molesting, i.e. a behaviour aiming at or resulting in violating dignity or humiliating/mortifying an employee as well as unaccepted behaviours of sexual nature (sexual molestation).

A violation of the principle of equal treatment in employment is also effected by an employer's differentiating employee's circumstances due to one or more above mentioned reasons resulting in i.a. a refusal to enter into or a termination of employment relationship, adverse structure of remuneration for work or other conditions of employment, exclusion from promoting or granting other benefits related to work - unless the employer proves to have had objective reasons.

There are some exceptions to that rule. Employer's actions consisting in e.g. refusing employment for the above mentioned reasons if it is reasonable due to the type of work, its conditions or professional requirements imposed on employees as well as due to applying measures differentiating an employee's legal status in relation to a protection of parenthood, age or disability of an employee.

Positive discrimination, i.e. differentiating in order to create equal opportunities for persons/groups in a worse situation, does not violate the principle of equal treatment in employment. Differentiating employees due to religion does not constitute discrimination if the employee's religion is a relevant, reasonable and justified professional requirement related to the type and nature of work.

In addition, each employee is entitled to the same salary for the same work or work of the same value, i.e. requiring comparable professional qualifications or comparable responsibilities and efforts.

3.3. Discrimination in other areas of life

It is prohibited to discriminate against sex, race, ethnic origin or nationality within the scope of the following:

- ➔ Access and conditions of benefiting from social security, services, including housing services, property and acquiring rights or energy if they are offered publicly;
- ➔ Access to health care as well as learning and higher education.

It is also forbidden to discriminate due to sex, race, ethnic origin, nationality, religion, faith, world views, disability, age or sexual orientation within the scope of:

- ➔ Taking up professional training, including continuing education, professional development, vocational retraining and vocational practices;
- ➔ Conducting economic or professional activity, including in particular within the framework of employment relationship or work based on civil law agreement;
- ➔ Entering and being an active member of labour unions, employer organisations and vocational self-regulatory bodies as well as using entitlements of members of such organisations;
- ➔ Access and conditions of use of instruments on the labour market as well as market services



Restricting the principle of equal treatment is possible due to issues related to public safety and order, health care or protection of freedom and rights of other persons as well as preventing actions that are subject to penalties.

How can you claim your rights?

If your employer violates the principle of equal treatment in employment, you have the right to damages in the amount not lower than a minimum salary for work. What is important is that if you use the entitlements in relation to the violation of the principle of equal treatment, it cannot constitute a reason justifying the termination of work relationship.

You have the possibility to take advantage of mediation which is a way to solve the matter amicably. You can also claim damages before court by filing a letter (called a suit) to the court against the employer. The suit should be addressed to a court competent for a place of residence of the employer (if it is a natural person), a registered office of the company (if it is a legal person, e.g. limited liability company) or to a court in the region of which the work was or is performed.

Cases relating to discrimination in employment are tried by labour divisions of district courts (labour courts). The district court's ruling can be appealed against before a regional court. In court proceedings, you can appear personally or be represented by a proxy (not only an attorney, but also people close to you: parents, spouse, siblings, children - also adopted, grandchildren as well as a party to the dispute, representative of a labour union, labour inspector or an employee of the place of work where you were or are employed).



In order to be awarded the right for compensation, you need to prove during the proceedings that you have been discriminated against, e.g. indicate the first and last name, witnesses' addresses, and documents.

In court proceedings, your employer must demonstrate that they did not discriminate against you, i.e. did not differentiate your situation due to sex, disability, race, religion, nationality, political views, union membership, ethnic origin, faith, sexual orientation as well as due to employment for a specified or unspecified period of time and on full-time or part-time basis.



You can also report problems related to discrimination at work to the National Labour Inspectorate which is a body supervising and controlling the compliance with the labour law. District Labour Inspectorates provide free legal counselling within the scope of labour law as well as specialist telephone advice concerning discrimination. Contact details are available at the website of the National Labour Inspectorate (www.pip.gov.pl). If you cannot afford an attorney or a legal counsel, you can request the court to exempt you from incurring court fees and appoint an attorney.



Some manifestations of discrimination are deemed offences by the Polish law and hence are prosecuted in criminal proceedings. Moreover, you can claim your rights in civil proceedings in accordance with the general principle stating that each person whose personal interests have been infringed upon can claim damages or compensation for a damage or harm suffered as well as can demand that the damage be corrected by a person who caused it at their own fault. An exception is a situation when the value of the disputed object exceeds PLN 75,000. A regional court is then a court of first instance and an appellate court is a court of appeal.

4. Application to the European Court of Human Rights

4.1. What is the European Court of Human Rights and what does it deal with?

The European Court of Human Rights (ECHR) is an international court operating within the system of the Council of Europe - an international organisation. The Court is located in Strasbourg, France. The Court ensures that the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms, also known as the Convention on Human Rights (ECHR), and its Protocols are complied with by states being parties to the Convention. It does it by hearing individual applications with regard to breaches of rights and freedoms provided for by the Convention and its Protocols.

4.2. Who can lodge an application to the ECHR?

An application to the ECHR can be lodged by every individual, a group of individuals and a legal person who believes that their rights set out in the Convention or its Protocols have been violated by a state being a party to the Convention. This means that also a foreigner who is not a citizen of a state being a party to the Convention may lodge an application relating to the breach of their rights or freedoms by the Republic of Poland.

4.3. What can an application to the ECHR relate to?

An application may only concern an action or negligence by state authorities, e.g. administrative bodies, courts or police officers and not breaches of rights of a given person by other persons or private institutions. Moreover, the Court only examines cases relating to rights and freedoms guaranteed in the ECHR and its Protocols. They include i.a. a right to live, right to liberty and security, right to a fair trial, right to respect for one's private and family life, freedom of thought, conscience and religion, freedom of expression, freedom of assembly and association, right to an effective remedy, right to protection of property, prohibition of torture and inhuman or degrading treatment or punishment, prohibition of slavery and forced labour, prohibition of discrimination in the enjoyment of freedoms and rights specified in the Convention, prohibition of collective expulsion of foreigners.

4.4. What formal requirements must be met by an application to the ECHR?

A) Requirement of exhaustion of legal remedies available in the country

The Court can examine a case only when you have used applicable legal remedies provided for by the Polish law. This means that before lodging an application to the ECHR you must file: An appeal and a cassation appeal (if available) in civil cases, an appeal and a cassation (if available) in criminal cases, an appeal to an authority of second instance, a complaint to a voivodship administrative court and a cassation appeal to the Supreme Administrative Court in administrative cases.

If you lodge an application to the ECHR before exhausting legal remedies in Poland, it will be dismissed and deemed inadmissible.



B) Deadline

An appeal must be lodged within six months¹ of the date on which state authorities have made a final decision in the case. There are no exceptions to this rule and the deadline cannot be restored.

¹ NOTE! Change of provisions within this scope: Deadline for lodging an application will be shortened – to 4 months.

C) The case has not been examined by the ECHR or any other international court

A case may not be essentially identical to a case already examined by the Court or to a case which was subject to another international examination or settlement procedure if the application does not contain any new relevant information. If any formal requirement is not met, the Court will dismiss the application and deem it inadmissible. You cannot appeal against the Court's decision.

4.5. How to lodge an application?

You can draw up an application on your own or with the assistance of a proxy and lodge the application free of charge. You are required to present the most relevant facts and complaints and demonstrate which rights or freedoms were violated. The application must be signed. It is to be lodged on an official form with photocopies of court decisions and rulings relevant to the case, and sent by mail directly to the ECHR's address. The application may be drawn up in any language of states being parties to the Convention, i.e. in Polish, Russian, Ukrainian or Armenian etc.

4.6. What does proceedings before the Court look like?

If the ECHR finds that an application meets all formal requirements, it sends it to the government, the actions or negligence of which the application concerns, with a request to present a position on the complaints expressed in the application. This is the so called complaint communication stage. The proceedings are initiated in one of the official languages of the Court, i.e. in English or French, and in principle the applicant should communicate with the ECHR only in one of those languages

unless the President of the Grand Chamber of the Court or the Chamber permits to continue the proceedings by a party in a language in which the complaint was lodged.



In this stage, you must appoint a proxy (attorney, legal counsel) who will represent you before the Court. If you do not have enough money to cover all or some costs of the proceedings, the President of an applicable Chamber of the Court may grant you free legal assistance at your request or ex officio. If the Court finds that the Convention or its Protocols have been violated by a state, it passes a judgment stating the violation and awarding a so called just satisfaction to the injured party. It is a certain amount of money which is supposed to compensate a loss incurred as a result of the violation of a right. Since the ECHR is not another instance of appeal, it cannot amend or revoke decisions or rulings of state authorities. It also cannot change a provision of law that was the basis for issuing a decision violating human rights. The Committee of Ministers of the Council of Europe is responsible for enforcing the ECHR's rulings.

5. Polish Ombudsman

5.1. Who is the Polish Ombudsman and what does the Ombudsman do?

The Polish Ombudsman is a body legal protection that is independent in its actions and from other state authorities. The Ombudsman protects human and civic freedoms and rights set out in the Constitution of the Republic of Poland as well as other legal acts applicable in Poland. In its cases, the Ombudsman examines whether bodies, organisations and institutions obligated to comply with and exercise human and civic freedoms and rights have not violated the law or principles of co-existence and social justice as a result of an action or lack of action, i.e. negligence. The Ombudsman's responsibilities are fulfilled with the assistance of a deputy, the Office of the Polish Ombudsman, and three Local Representatives: in Gdańsk, Katowice and Wrocław.

5.2. Can you receive assistance from the Polish Ombudsman?

Everyone who resides in Poland may apply for the assistance of the Polish Ombudsman. The Department of Administrative Law and Economic Law Director handles foreigners' affairs in the Office of the Ombudsman. Its competences include i.e. matters relating to:

- ➔ Polish citizenship, a Polish Charter and repatriation,
- ➔ Protection of rights of national and ethnic minorities,
- ➔ Protection of foreigners' rights, protection of refugees' rights, border traffic services and border control.

5.3. How to file an application to the Ombudsman and what to include in it?

An application to the Ombudsman may be filed on one's own behalf or on behalf of another person whose rights were violated. The application does not require any special form but must include basic information which will enable the Ombudsman to get acquainted with the reported problem. Those are:

- First and last name of yourself and a person whose freedoms and rights the matter relates to – anonymous applications are not reviewed,
- Communication address,
- Determination of the subject matter – what does the matter relate to, what freedoms and rights were violated and in what way,
- Copies of documents confirming presented circumstances.

An application is free of charge.

An application to the Ombudsman may be filed:

- in writing,
- in person during client visits,
- by an electronic form,
- by electronic mail (biurorzecznika@brpo.gov.pl),
- by electronic mail box – ePUAP.

5.4. How does the Ombudsman work?

The Ombudsman gets acquainted with each application addressed to the Ombudsman and then decides whether to handle a given matter. The Ombudsman may also not handle the matter, only indicate measure that the applicant is entitled to or refer the matter to a competent authority. The Ombudsman informs you and the person that the matter relates to about the decision. The law does not specify the time limit within which the Ombudsman should give an answer. There is no remedy against the Ombudsman's refusal to accept a given case. If the Ombudsman adopts a case, the Ombudsman verifies facts presented in an application. The Ombudsman may conduct the proceedings independently or request competent authorities to examine the case, the Ombudsman may also examine the case on site and demand case files or information on the case progress from any institution. Following the examination of the case, the Ombudsman may find that there was no violation of rights and freedoms in a given case. However, if it is found that rights and freedoms were violated, the Ombudsman may refer the application to a competent authority, organisation or institution in which there was such a violation or to a body of higher authority. In the reference, the Ombudsman forms opinions and conclusions as to the manner of solving the matter and may demand that disciplinary proceedings be initiated or official sanctions be imposed. The institution referred to is obligated to inform the Ombudsman not later than within 30 days about measures or a position taken. The Ombudsman may also undertake other actions, e.g. lodge a cassation or a cassation complaint to the Supreme Court and a complaint to a voivodship administrative court or the Supreme Administrative Court, demand that civil or administrative proceedings be initiated or participate in pending proceedings. The Ombudsman may also request that the compliance of the Act with the Constitution of the Republic of Poland be examined or legislative initiative be taken.

In each case, the Ombudsman informs the applicant about actions taken or that it was found that there was no violation of human rights and freedoms.

5.5. What matters does the Ombudsman not handle?

It is therefore necessary to remember that the Ombudsman does not replace competent institutions (administrative bodies, courts etc.) in handling matters within their area of competence, in particular when administrative or court proceedings are still pending. The Ombudsman does not intervene in disputes between private persons, the Ombudsman's area of action includes a violation of rights and freedoms by public authority bodies.

An application to the Ombudsman does not replace legal remedies, e.g. appeal in criminal proceedings or appeal against a negative administrative decision.



6. Polish Ombudsman for Children

6.1. Who is the Polish Ombudsman for children and what does the Ombudsman do?

The Ombudsman for Children protects children's rights determined in the Constitution of the Republic of Poland, the Convention on the Rights of the Child and other provisions of law as well as acts to protect those rights (in particular a right to live and health protection, a right to be raised within a family, a right to reasonable social conditions and a right to education). The Ombudsman for Children takes actions aimed at protecting a child against violence, cruelty, exploitation, demoralisation, negligence and other ill-treatment.

Every human being is considered a child from the conception to the time they reach the maturity, i.e. in principle until they become 18 years old. This means that also foreign children or their parents may request help from the Ombudsman for Children.

6.2. How can I contact the Ombudsman for Children?

In order to request help from the Ombudsman for Children, you can contact the Office of the Ombudsman for Children by post, phone or electronic mail. A matter may also be personally referred to the Office. In addition, the Ombudsman offers the Child's Trust Phone (0 800 12 12 12 – free number from landline phones). It was created for children who have a problem with which they cannot deal on their own but they do not know where to turn for help. It can also be used by adults who know about the child's problem and would like to report it.

6.3. How does the Ombudsman for Children act?

The Ombudsman for Children acts on its own initiative, taking into account information the Ombudsman receives which indicate a violation of a child's rights or interests. In any case, the Ombudsman for Children informs a person or an organisation reporting information on a violation of a child's rights or interests, on a position taken and in the case of taking action - about its consequences. The provisions of law do not specify a deadline for the Ombudsman for Children to provide a response and they do not provide for the possibility to appeal against the Ombudsman's position. The Ombudsman for Children may examine each matter on site and demand explanations, information and case files from public authority bodies, organisations and other institutions. They are obligated to co-operate with the Ombudsman and provide any help, information and explanations to the Ombudsman. Following the examination of a matter, the Ombudsman may request a competent body, organisation or institution to take actions for children within their area of competence. They are obligated to inform the Ombudsman for Children about actions or a position taken not later than within 30 days. In addition, if the Ombudsman finds that the above mentioned institutions violated a child's rights or interests, the Ombudsman may demand that disciplinary proceedings be initiated or official sanctions be imposed.



The Ombudsman for Children handles individual cases if they were not solved appropriately earlier despite using available legal resources. The Ombudsman does not replace specialised institutions protecting children's rights but intervenes in a situation when hitherto procedures proved ineffective or were relinquished.

ANNEX 1

Addresses of Voivodship Governor's Offices

Lower Silesian Voivodship Governor's Office Department of Citizens' and Foreigners' Affairs

Dolnośląski Urząd Wojewódzki

Wydział Spraw Obywatelskich i Cudzoziemców

pl. Powstańców Warszawy 1 (ground floor)

50-951 Wrocław

→ www.duw.pl/pl/obsługa-klienta/cudzoziemcy/kontakt
telefony:

→ legalisation of stay 71 340 66 55, 71 340 67 02

→ residence card collection 71 340 64 58

→ invitation collection 71 340 69 53

→ work permits 71 340 69 23, 71 340 69 37

Kuyavian-Pomeranian Voivodship Governor's Office

Kujawsko-Pomorski Urząd Wojewódzki

ul. Jagiellońska 3

85-950 Bydgoszcz

Department of Legalisation of Foreigners' Stay

Oddział Legalizacji Pobytu Cudzoziemców

(building B entrance at 1 Konarskiego Street,

6th floor, room 62)



tel. 52 349 72 40



www.bydgoszcz.uw.gov.pl/pl/

wydzial-spraw-obywatelskich-i-cudzoziemcow.html

e-mail: cudzoziemiec@bydgoszcz.uw.gov.pl

Lubelskie Voivodship Governor's Office Lubelski Urząd Wojewódzki

Department for Foreigners' Affairs Oddział ds. Cudzoziemców

ul. Spokojna 4

20-914 Lublin



www.lublin.uw.gov.pl



tel. 81 74 24 732

fax 81 74 24 432

e-mail: wsoc@lublin.uw.gov.pl

Lubuskie Voivodship Governor's Office Lubuski Urząd Wojewódzki

ul. Jagiellończyka 8

66-400 Gorzów Wielkopolski



www.lubuskie.uw.gov.pl

Headquarters of the Office: tel. 95 711 56 00



tel. 95 711 53 05

fax 95 711 53 28

e-mail: obywatelskie.cudzoziemcy@lubuskie.uw.gov.pl

Łódzkie Voivodship Governor's Office Łódzki Urząd Wojewódzki
Department of Citizens' and Foreigners' Affairs

Wydział Spraw Obywatelskich i Cudzoziemców

ul. Piotrkowska 103
90-425 Łódź



Helpline of the Office: tel. 42 664 17 00



tel.: 42 664 17 04, 42 664 17 01, 42 664 17 02

fax 42 664 17 03

e-mail: SO@lodz.uw.gov.pl

Lesser Poland Voivodship Governor's Office Małopolski Urząd Wojewódzki
Department of Citizens' and Foreigners' Affairs
Department for Foreigners' Affairs

Wydział Spraw Obywatelskich i Cudzoziemców

Oddział ds. Cudzoziemców

ul. Przy Rondzie 6
(ground floor, foreigners room service)
Kraków



www.malopolska.uw.gov.pl



tel. 12 39 21 804

fax 12 42 23 019

e-mail: wo@malopolska.uw.gov.pl

Mazowieckie Voivodship Governor's Office Mazowiecki Urząd Wojewódzki
Department for Foreigners' Affairs Wydział Spraw Cudzoziemców

ul. Długa 5
00-263 Warszawa



www.mazowsze.uw.gov.pl



tel.: 22 695 67 70, 22 695 67 73

e-mail: legalizacjapobytu@mazowieckie.pl

Opolskie Voivodship Governor's Office Opolski Urząd Wojewódzki

ul. Piastowska 14
45-082 Opole



www.opole.uw.gov.pl



Customer Service Office: tel. 77 45 24 125



tel. 77 45 24 705


fax 77 45 24 478

Podkarpackie Voivodship Governor's Office Podkarpacki Urząd Wojewódzki

ul. Grunwaldzka 15

35-959 Rzeszów

 www.rzeszow.uw.gov.pl

 tel. 17 867 10 00

Podlaskie Voivodship Governor's Office Podlaski Urząd Wojewódzki

ul. Mickiewicza 3

15-213 Białystok

 www.bialystok.uw.gov.pl

 tel.: 85 743 93 15, 85 743 92 31


Pomorskie Voivodship Governor's Office Pomorski Urząd Wojewódzki


ul. Okopowa 21/27


(entrance at Rzeźnicka Street)

80-958 Gdańsk

 www.uw.gda.pl

 Telephone information of the Office for legalisation of stay:
58 30 77 121, 58 30 77 176, 58 30 77 420,
58 30 77 421, 58 30 77 424, 58 30 77 464

 Telephone information of the Office for legalisation of
employment: 58 30 77 466, 58 30 77 603

 Secretary's Office of the Department for Foreigners' Affairs
(room 11)

 tel. 58 30 77 427

fax 58 30 77 214

e-mail: wsom_cudzoziemcy@gdansk.uw.gov.pl


Śląskie Voivodship Governor's Office in Katowice

Śląski Urząd Wojewódzki w Katowicach

ul. Jagiellońska 25

40-032 Katowice

 Office of the Department for Foreigners (room 327)

 tel.: 32 20 77 328, 32 20 77 400

fax 32 20 77 327

e-mail: wsoim@katowice.uw.gov.pl

Świętokrzyskie Voivodship Governor's Office Świętokrzyski Urząd Wojewódzki

 www.kielce.uw.gov.pl


Department of Citizens' and Foreigners' Affairs

Wydział Spraw Obywatelskich i Cudzoziemców

Department for Foreigners' Affairs Oddział ds. Cudzoziemców

al. IX Wieków Kielc 3

25-516 Kielce

 www.kielce.uw.gov.pl/pl/obsługa-klienta/cudzoziemcy

 tel.: 41 342 15 02, 41 342 15 70

fax 41 342 14 66


Warmińsko-Mazurskie Voivodship Governor's Office

Warmińsko-Mazurski Urząd Wojewódzki

al. Marsz. J. Piłsudskiego 7/9

10-575 Olsztyn

 www.uw.olsztyn.pl

 Headquarters of the Office: tel. 89 52 32 200

General fax: 89 527 74 47

e mail: info@uw.olsztyn.pl

 Customer Service Point: tel.: 89 52 32 444, 89 52 32 333

Wielkopolskie Voivodship Governor's Office Wielkopolski Urząd Wojewódzki

Department of Citizens' and Foreigners' Affairs

Wydział Spraw Obywatelskich i Cudzoziemców

pl. Wolności 17 (floor 16)

61-739 Poznań

 www.poznan.uw.gov.pl

 tel. 61 854 17 21

fax 61 854 18 43

e-mail: so@poznan.uw.gov.pl

Zachodniopomorskie Voivodship Governor's Office

Zachodniopomorski Urząd Wojewódzki

Wały Chrobrego 4

70-502 Szczecin

 www.szczecin.uw.gov.pl

Information (foreigners' affairs):

 tel.: 91 43 03 728, 91 43 03 500

ANNEX 2

Institutions and Organisations Providing Assistance to Foreigners

Office of the Ombudsman for Children Biuro Rzecznika Praw Dziecka

ul. Przemysłowa 30/32

00-450 Warszawa

→ tel. 22 583 66 00

e-mail: rpd@brpd.gov.pl

Office of the Polish Ombudsman Biuro Rzecznika Praw Obywatelskich

al. Solidarności 77

00-090 Warszawa

→ tel. 22 55 17 700

e-mail: rzecznik@rpo.gov.pl

Caritas

ul. Skwer kard. Stefana Wyszyńskiego 9

01-015 Warszawa



tel. 22 334 85 00

e-mail: caritas@caritas.pl

African Culture Centre Motema Africa

Centrum Kultury Afrykańskiej Motema Africa

ul. Dzika 6 m. 256

00-172 Warszawa



tel.: 511 260 745 or 0033 770 684 314

e-mail: afrikana2006@yahoo.fr

Halina Nieć Legal Aid Centre Centrum Pomocy Prawnej im. H. Nieć

ul. Krowoderska 11/7

31-141 Kraków



www.pomocprawna.org



tel. 12 633 72 23

fax 12 423 32 77

e-mail: biuro@pomocprawna.org

Foundation "Africa Another Way" Fundacja Afryka Inaczej



tel. 883 348 287

fax 22 203 51 58

Foundation: Rule of Law Institute Fundacja Instytut na rzecz Państwa Prawa

ul. F. Chopina 14/70

20-023 Lublin



www.fipp.org.pl





tel. 81 743 68 05

e-mail: fundacja@fipp.org.pl

Foundation "Ocalenie" Fundacja „Ocalenie”
ul. Koszykowa 24 room 1 (1st floor)
00-553 Warszawa
 www.ocalenie.org.pl
 tel. 22 828 04 64
fax 22 828 50 54
e-mail: fundacja@fundacjaocalenie.org.pl

KZKO Armenian Foundation Fundacja Ormiańska KZKO
ul. Broniewskiego 54/83
01-716 Warszawa
 www.fundacjaormianska.pl
 tel. 696 586 108
e-mail: marta@fundacjaormianska.pl,
sekretariat@fundacjaormianska.pl

Helsinki Foundation for Human Rights Helsińska Fundacja Praw Człowieka
ul. Zgoda 11
00-018 Warszawa
 www.hfhr.pl, programy.hfhr.pl/uchodzczy
 tel. 22 556 44 66
e-mail: refugees@hfhr.org.pl

International Organization for Migration
IOM Międzynarodowa Organizacja ds. Migracji
ul. Mariensztat 8
00-302 Warszawa
 www.iom.pl
 tel. 22 538 91 69
e-mail: iomwarsaw@iom.int

Fu Shenfu Migrant Centre Ośrodek Migranta Fu Shenfu
ul. Ostrobramska 98
04-118 Warszawa
 tel. 22 610 02 52
e-mail: osrodek@migrant.pl

Polish Humanitarian Action Polska Akcja Humanitarna

ul. Szpitalna 5 room 3

00-031 Warszawa

→ tel. 22 828 88 82

e-mail: pah@pah.org.p

Polish Red Cross Polski Czerwony Krzyż

ul. Mokotowska 14

00-561 Warszawa

→ www.pck.org.pl

Telephone service centre: 22 326 12 00

→ tel. 22 326 12 00

Secretary's Office: info@pck.org.pl, zarzad.glowny@pck.org.pl,
head.office@pck.org.pl

→ tel. 22 326 12 86

fax 22 628 41 68

Polish Migration Forum Polskie Forum Migracyjne

ul. Orła Białego 44 a

05-080 Izabelin

→ tel. 605 888 753

e-mail: info@forummigracyjne.org

Polish and Sudanese Association for the Cooperation and Friendship "Nil-Vistula"

Polsko-Sudańskie Stowarzyszenie na rzecz Współpracy i Przyjaźni Nil-Wisła

ul. Zwycięzców 19

03-936 Warszawa

e-mail: nil-wisla@o2.pl

Association for Legal Intervention Stowarzyszenie Interwencji Prawnej

ul. Siedmiogrodzka 5

01-204 Warszawa

→ tel. 22 621 51 65

e-mail: interwencja@interwencjaprawna.pl

Socio-Cultural Association of the Vietnamese People in Poland

Towarzystwo Społeczno-Kulturalne Wietnamczyków w Polsce

ul. Marszałkowska 45

00-648 Warszawa

Jagiellonian University Legal Clinic

Human Rights Section

Uniwersytecka Poradnia Prawna Uniwersytetu Jagiellońskiego

Sekcja Praw Człowieka

al. Zygmunta Krasińskiego 18

30-101 Kraków

→ tel. 12 430 19 97

→ www.law.uj.edu.pl/poradnia

Foundation for Development Beyond Borders

Fundacja Rozwoju Oprócz Granic (Frog)

ul. Mazowiecka 12 room 24 (1st floor)

00-048 Warszawa

→ www.frog.org.pl

→ tel.: 22 403 78 72, 517 459 418

e-mail: biuro@frog.org.pl

Association for Free Speech Stowarzyszenie Wolnego Słowa

ul. Marszałkowska 7

00-626 Warszawa

→ www.sws.org.pl

→ tel., fax 22 405 66 30

e-mail: sws@sws.org.pl

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- Act of 12 March 2004 on Social Assistance
- Act of 20 April 2004 on Employment Promotion and Labour Market Institutions
- Act of 3 December 2010 on the Implementation of Some Regulations of European Union Regarding Equal Treatment

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- Ministry of Justice: www.ms.gov.pl
- National Labour Inspectorate: www.pip.gov.pl
- Polish Ombudsman: www.rpo.gov.pl
- Polish Ombudsman for Children: www.brpd.gov.pl
- Office for Foreigners: www.udsc.gov.pl
- European Court of Human Rights: www.echr.coe.int
- Council of Europe: <http://hub.coe.int>
- www.pokrzywdzeni.gov.pl
- www.prezydent.pl

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The Helsinki Foundation for Human Rights was established in 1989 by members of the Helsinki Committee, who had been operating underground in Poland. Today, it is one of the largest non-governmental organisations protecting human rights in Poland. The Foundation's activities include: monitoring and research concerning complying with human rights, strategic litigation, education in Poland and abroad within the scope of human rights as well as legal assistance provided to citizens of Poland and foreigners. The Foundation collaborates with international human rights institutions and since 2007, we have been in consultative status with the United Nations Economic and Social Council (ECOSOC).

The Legal Assistance for Refugees and Migrants Programme was launched in 1992. Its fundamental activities include free of charge legal advice for foreigners contacting the Foundation as well as performing interventions and litigation activities. The scope of activities under the Programme also include monitoring that foreigners' rights are observed, drawing up opinions with regard to drafts of legislative acts that concern migration as well as providing information and education in relation to foreigners' rights.

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