



Dać radę
w Polsce

Informacja i pomoc
prawna dla migrantów

Family Reunification of Foreigners in Poland

Law and Practice





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INTRODUCTION

The right to family life is one of the fundamental human rights. The Polish law allows foreigners to bring their family members to Poland, with various available routes for legalizing their stay in Poland due to family ties. One of them is the family reunification procedure, which this publication is devoted to. As compared to other countries covered by the cyclical Migrant Integration Policy Index reviews, Polish regulations related to the family reunification procedure are considered favourable, even though the Polish law holds a fairly narrow definition of family as such. The right to be reunited with their family is primarily granted to foreigners already relatively well-integrated on the economic level, i.e. with a secured stable financial situation and accommodation. Also refugees are eligible for family reunification, already immediately upon being granted the refugee status. For them, bringing family members to Poland may be about more than just family reunion, but also about ensuring their relatives' safety and protecting them from a potential danger in the country of their origin.

Going through the family reunification procedure is oftentimes perceived as a very complex, cumbersome process by foreigners, mostly due to the difficulties related to understanding Polish regulations and the lack of experience in handling administrative matters in a foreign country. Hence this publication, addressing foreign nationals living in Poland, and consisting of two main sections, titled "Law" and "Practice". In the first section, an experienced lawyer with the Helsinki Foundation for Human Rights explains in a thorough, yet clear and concise way the relevant regulations within the Polish law. The second section comprises interviews with two persons who deal with these matters in their daily work, i.e. Head of the Foreigners Department of the Mazowieckie Voivodeship Office, and Integration Advisor with the Helsinki Foundation for Human Rights. The interviews focus on the practical aspects of going through the family reunification procedure. Our interviewees share practical hints and tips on how to handle this long and complicated administrative procedure in a more efficient, faster way. Our experts also answer the most frequently asked questions on bringing family members to Poland.

The attachments we enclose contain links to legal acts, publications and multimedia materials related to the family reunification procedure. Please find attached also a comprehensive list of addresses of all the Voivodeship Offices in Poland, as well as non-governmental organizations in Poland that offer free legal and integration assistance to foreigners, including help with the family reunification procedure.

SECTION 1 – LAW



Family reunification of foreigners and the Polish law

by Marta Górczyńska

What is the family reunification procedure?

Family reunification is a procedure that allows a foreigner to bring her/his family to the country she/he is currently residing in. Based on this procedure, a third-country national may apply with the authorities of a given country for a permission for her/his family members to enter the country of the foreigner's current residence and legally stay therein. It is worth knowing that the family reunification procedure may be applied regardless of whether the family relationship existed prior to the foreigner's departure from the country of her/his origin. Hence, a foreigner may bring into the country e.g. a spouse she/he lawfully married before emigrating into that country, but also one she/he married while already living there.

The right to family reunification is in EU legislation governed by the Council Directive 2003/86/EC on the Right to Family Reunification. In Poland, all matters related to the procedure of family reunification are governed by the **Act of 12 December 2013 on Foreigners**, herein referred to as the **Act on Foreigners**.



Family reunification – the entry into and stay in one of the European Union member states by the members of the family of a third-country national legally residing in this country, in order to preserve family unity.

Who may apply for family reunification?

Only groups of foreigners stipulated by the Act, with residence titles stipulated therein, may apply for family reunification. The Act on Foreigners identifies the following types of residence titles:

- ✓ permanent residence permit,
- ✓ residence permit for a long-term European Union resident,
- ✓ refugee status,
- ✓ subsidiary protection,
- ✓ temporary residence permit granted on the grounds of scientific research,
- ✓ temporary residence permit granted by another EU member state and annotated "Academic Visitor", issued on the grounds of scientific research, provided that the agreement

on the reception of the foreigner who is to conduct a research project, concluded with a relevant academic institution of that country foresees that the scientific research is to be conducted also within the territory of Poland,

- ✓ temporary residence permit granted to allow highly qualified employment (i.e. “Blue Card”),
- ✓ permit granted for humanitarian reasons,
- ✓ temporary permit granted under circumstances other than indicated above, provided that the foreigner has been residing in Poland for a minimum of two years under subsequent temporary residence permits, including residence not shorter than one year under a valid residence permit in the period directly preceding the submission of the application for a temporary residence permit for her/his family member.

As can be seen from the list above, not all foreigners are eligible for family reunification. For instance foreigners residing in Poland under a visa, or foreigners with a temporary residence permit who have stayed in Poland for a period shorter than two years are not eligible for this procedure. Prior to the initiation of the procedure, the foreigner’s eligibility must be verified.



Important notice: If you are not certain what type of residence permit you hold, please see your decision on granting residence permit/international protection or consult a lawyer at one of the non-governmental organizations providing assistance to foreigners (for a comprehensive list of organizations, see the end of this publication).

Who is considered family?

Across different countries and legal systems, the understanding of who family is varies. In some of them, it is only spouses, parents and offspring (children) that are considered family, in other, grandparents and more distant relatives are also covered by the term. For this reason, the Act on Foreigners identifies the family members that are eligible for the family reunification procedure. The definition of “family” applied in this act is quite limited, as it covers only the so-called nuclear family, thus excluding some relatives that some foreigners may possibly consider their next of kin. For the purpose of family reunification, the following relatives of a third country national (foreigner) are considered to be her/his family members:

- ✓ **A spouse** in a marriage recognized by the Polish law. Please note that under the Polish legal system, no exclusively religious (not registered with the civil authorities) marriages, same-sex, or polygamous unions are recognized.
- ✓ **A minor child (under 18 years of age) of the foreigner and her/his spouse**, including legally adopted children. This means that only children who are underage according to Polish regulations are eligible for reunification with their parents.

- ✓ **A minor child of the foreigner, including also an adopted child, supported by the foreigner, over who the foreigner exercises actual parenting authority.** This is a situation concerning a child raised by a single parent, or one parent and his/her spouse, who is supported by that parent. The actual parental authority refers to a situation where the child for the majority of time remains with the given parent, thus remaining under her/his care, and is supported by her/him.
- ✓ **A minor child of the foreigner's spouse, that is supported by that spouse,** provided that the spouse exercises actual parental authority over the child. This concerns a situation where the foreigner applies to be reunited with her/his stepson/stepdaughter.

The above list clearly indicates that “family” according to the Polish Act on Foreigners is in fact limited to the spouse and minor children (i.e. under 18 years of age). The term does not cover more distant family relatives, such as siblings, parents, adult children (over 18 years old), uncles, cousins, etc.

In this respect, **unaccompanied minor children** (without a guardian within the territory of Poland), who have obtained one of the forms of international protection, e.g. refugee status or subsidiary protection, enjoy certain privileges. In their case, a family member may also be considered to be a first-degree relative in the direct ascending line (a parent, grandmother or grandfather), or another adult who is responsible for the child according to the Polish law, i.e. has lawful custody over the child, such as for instance the child's sibling.



An unaccompanied child – a person under 18 years old, who has no family member or a factual caregiver / guardian who would exercise custody over the child according to the Polish law. Such a person, upon obtaining protection in Poland, may apply for family reunification through a guardian (*kurator*) appointed by the Family Court.

What requirements need to be met?

To obtain a temporary residence permit for a family member, it is necessary to provide evidence of having health insurance, a source of stable, regular income, and adequate accommodations within the territory of Poland.

Health insurance is a confirmation of being provided for in case of an illness, hospitalization or a necessity for a medical appointment under the public healthcare system. The evidence of meeting this requirement may be a document confirming a health insurance policy has been taken out with a private insurance company, the confirmation of paying health insurance premiums towards the National Insurance Institution scheme, or a monthly report (known as the RMUA form) confirming that such premiums are paid by one's employer. A source of stable income means having a regular, most typically monthly income enabling to make a living in Poland, e.g. due to held employment or running one's own business activity. The monthly in-

come must exceed the amount that entitles to receiving social benefits (currently PLN 634 for a single-person household, and PLN 514 per person for a family). The source of stable income may be confirmed by e.g. presenting an employment contract. The requirement of having a source of stable and regular income is also met when the costs of the foreigner's living will be covered by a member of family living within the territory of Poland and responsible for her/his upkeep, such as a spouse or a parent. This means that if a foreigner applying for family reunification is employed within the territory of Poland and her/his remuneration is sufficient, the requirement of a source of stable income is met.



Remember: To provide evidence of income, it is not enough to present a printout from your bank account confirming the amount of financial resources in the account. It is necessary to prove that you receive a regular inflow of financial means (such as remuneration), typically on a monthly basis.

Accommodations or, in other words, a place of residence stands for the ability to stay within the territory of Poland under a given address. To confirm having adequate accommodation, a deed of ownership of a flat, a tenancy agreement, a contract of lending for use, a confirmation issued by a hotel, etc. may be presented.

Foreigners who have obtained refugee status or subsidiary protection in Poland enjoy special privileges. They are eligible for a simplified family reunification procedure. If they submit a relevant application with a Voivode (*wojewoda*) of proper venue within 6 months from the date of obtaining protection within the territory of Poland, they are not obliged to comply with the conditions of having health insurance, a stable source of income, or accommodation in Poland. It must, nonetheless, be remembered that when the residence permit is granted, the foreigner's member of family residing outside Poland is obliged to obtain a visa from a Polish consulate. The requirements under which a visa is obtained, in turn, include having adequate financial means and health insurance.

Who may submit the application and where?

The family reunification procedure is initiated by submitting an application for temporary residence. The application is submitted by the foreigner living in Poland on behalf of the family member(s) who are seeking to be reunited with her/him. If the foreigner is applying for reunification with several family members (e.g. a spouse and two children), a separate application is required for each person.

The application must be completed **in Polish on a designated form**, available at every Voivodeship Office (*Urząd Wojewódzki*), or online, for instance on the website of the Office for Foreigners, at <http://goo.gl/ZZhkP0>. The authority relevant for examining the case where the application must be addressed to is the **Voivode competent for the foreigner's place of residence**. Thus, a foreigner living in Warsaw should apply with the Mazowiecki Voivode (*wojewoda mazowiecki*).



In Warsaw, the Voivodeship Office (*Urząd Wojewódzki*) is situated at ul. Marszałkowska 3/5. For a comprehensive list of other Voivodeship offices, please see the end of this publication.

The following documents must be submitted at the office to initiate the family reunification procedure:

- ✓ A completed application for a residence permit in Poland for a member of the foreigner's family, in 3 identical copies.
- ✓ A photograph of the person who is to be granted the residence permit, in 4 identical copies: all photographs must be in colour, intact, sized 45x35 mm, taken within the past 6 months against a uniform light background, clear, with the person's eyes and face clearly visible from the top of their head down to the upper portion of their shoulders. The person's face must occupy 70-80% of the photograph, and the photograph must show a person looking straight ahead, with her/his eyes open, uncovered hair, a natural face expression, and the mouth closed. A foreigner who wears headwear as a religious observance (such as a hijab or a turban) is allowed to attach his/her photograph with the headwear on, as long as the face is fully visible. In such a case, the foreigner is also obliged to attach a declaration of belonging to a given religious community (denomination).
- ✓ A photocopy of a valid travel document, stamped "a certified true copy" by a Polish consulate.
- ✓ Documents confirming your family ties, i.e. such as a birth certificate, marriage certificate, documents verifying the adoption of a child, or other vital records.
- ✓ Documents confirming the status of the foreigner living in Poland, whose family member is seeking to be reunited with her/him, such as a photocopy of the decision on the permanent residence permit being granted, the decision on the status of a refugee being granted, etc.
- ✓ Documents confirming the fact that the foreigner is residing in Poland (this requirement does not concern foreigners who have obtained one of the forms of international protection within the territory of Poland, provided that the application for family reunification is submitted within 6 months from the date when the protection was granted).
- ✓ Documents confirming a stable source of income (this requirement does not concern foreigners who have obtained one of the forms of international protection within the territory of Poland, provided that the application for family reunification is submitted within 6 months from the date when the protection was granted).
- ✓ Documents confirming health insurance (this requirement does not concern foreigners who have obtained one of the forms of international protection within the territory of Poland, provided that the application for family reunification is submitted within 6 months from the date when the protection was granted).

Even though the relevant proceeding is conducted in Poland, the family member residing outside the country's territory is obliged to perform certain activities in the course of the proceeding within the territory of her/his own country. First of all, she/he should have a photocopy of her/his travel document (passport) certified at a Polish consulate to be a true copy, and then send it to Poland along with her/his 4 photographs (a photograph in 4 identical copies) conforming to the formal guidelines.

All relevant vital records, such as a marriage certificate and certificates of birth, need to be **registered in a Polish Registry Office (*Urząd Stanu Cywilnego*)**. This is referred to as the "transcription" procedure, and consists in registering a foreign document in Polish registries. To comply with it, the foreign document confirming the completion of a marriage or the birth of a child, along with its sworn translation into Polish, should be lodged with the Registry Office (*Urząd Stanu Cywilnego*) competent for the place of residence. If the person whose document is to be registered has never resided in Poland, the competent office is the Registry Office for the Capital City of Warsaw-Śródmieście (*Urząd Stanu Cywilnego dla Miasta Stołecznego Warszawy-Śródmieścia*), at Generała Andersa Str. 5, Warsaw. A relevant administrative fee (stamp duty) must also be settled, and a confirmation slip thereof presented. The fee may usually be settled either directly at the office, or at a post office. The Registry Office should transcribe the documents within 1 month.. To hasten the procedure, an application for the case to be completed within a shorter time may be filed along with the documents to be transcribed.



Important notice: It is of utmost importance that the personal data in the all the documents and their sworn translations into Polish be identical with the data found in the foreigner's passport. It is absolutely vital that the transcription of the name and surname (the form in which they are written down) be identical across all the documents.

In the course of the proceeding for family reunification, all the required documents must be submitted **in Polish**. Documents issued in foreign languages must be translated into Polish by a sworn translator. Photocopies of documents must be stamped "a certified true copy". Such certification may be performed by a notary public or a consul. Non-certified photocopies may also be submitted provided that their originals are presented to the relevant administrative body.



Important notice: For a comprehensive list of sworn translators, see the Ministry for Justice website, at <https://goo.gl/U3gf2W>

How is the proceeding conducted?

The proceeding for granting a residence permit to a foreigner's family member is conducted by an administrative body known as the Voivode (*wojewoda*). The Voivode examines whether all the requirements stipulated by the law have been met. The administrative body

examines i.a. whether the family members are in fact related or married, and whether the foreigner has an adequate income and health insurance allowing to seek family reunification, etc. The body may also **verify the nature of the relationship between the foreigner and her/his spouse** in order to rule out that the marriage was concluded for the sole purpose of legalizing the stay in Poland (so-called 'sham marriage'). The authorities may come to such a conclusion in particular when one of the spouses was bestowed with a material gain in return for consenting to conclude the marriage (unless as an observance of a custom or a tradition), the spouses had not met prior to concluding the marriage, do not speak a common language, or are not unanimous as regards the circumstances of their marriage and life together. To examine the nature of the marital union, authorities may investigate both spouses, confronting their answers.

The prerequisite for the initiation of the proceeding is attaching the submitted application with a photocopy of the family member's passport stamped a "certified true copy". It is certified by the consul at a Polish diplomatic unit, where the family member is obliged to appear in person. It is of utmost importance that **the travel document (passport) is certified in its entirety (all its pages, including the un-annotated ones)**. According to the consular fees table, the cost of the certification of a travel document is currently **EUR 30**.

In the occurrence of not attaching this document, the applicant is requested to remove the formal shortcomings of the application, i.e. present the certified photocopy of the passport within a non-exceedable deadline of 7 days. The applicant is obliged to submit the missing documents within the stipulated time, or else the application shall be left unexamined.



Calculating the deadline – according to the regulations, when calculating the deadline, the day on which a certain event or activity transpired is not considered. The last day of the stipulated number of days is considered to be the deadline. This means that if a formal notification (letter) was delivered to the recipient on Wednesday 9 March, and the recipient (the foreigner in this case) is obliged to attach the additional documents within 7 days, then the last day when the deadline is kept is considered to be Wednesday 16 March.

It is possible that owing to circumstances beyond her/his control, a foreigner is not able to submit the required documents within the stipulated deadline. In such circumstances, she/he may apply for the **deadline to be reinstated**. The reasons for having missed the deadline must be, however, serious and impossible to have been foreseen, such as an accident or medical emergency followed by hospitalization. A medical appointment that had been arranged in advance, or an urgent need to leave the town are not considered sufficient reasons for the deadline to be restored. However, should relevant circumstances transpire, the application for the deadline to be restored should be submitted within 7 days since the day when the reason for missing the deadline ceases to exist, and simultaneously the obligation in question should be met i.e. the required documents should be submitted, along with the application for the

deadline to be restored. Here is an example of a relevant situation: On 18 April, a foreigner receives a formal letter from the relevant office requesting her/him to provide a photocopy of the travel document of the family member she/he is applying to be reunited with. Thus, the deadline is 25 April. One day prior to the deadline, the foreigner suffers an accident and is hospitalized. She/he is only able to submit the said document as late as on 1 May, after she/he has been released from the hospital. In such circumstances, the foreigner should within 7 days (i.e. no later than on 8 May) apply with the Voivodeship Office for the deadline to be restored, indicating the reasons why the deadline was not met, and attaching relevant documents verifying her/his hospital stay within the stated dates, while also submitting the required photocopy of the travel document of the family member in question.



Important notice: If you happen not to be sure what the deadline for the submission of the required documents is, or what to do when you did not submit the necessary documents within the stipulated deadline for reasons beyond your control, you can contact one of the non-governmental organizations that provide assistance to foreigners. Make sure to do so without any further delay.

In the course of the proceeding, while determining whether a given foreigner should be granted a temporary residence permit, the administrative body considers a whole number of factors, such as: a child's interest, the nature and the stability of the family ties, the period of the foreigner's stay in Poland, as well as the existence of family, cultural, and social ties to the foreigner's country of origin. Prior to issuing a decision granting the permit, the Voivode addresses the Commander of a Border Guard (*Straż Graniczna*) division, the Voivodeship Police Commander, and the Head of the Internal Security Agency, as well as a Polish consul and other authorities or administrative bodies if necessary, with a formal request for adequate information to be handed over on whether the given foreigner's entry into the territory of Poland and her/his stay within the territory may **pose a threat to national security and defense or to the protection of public security and order**. When information to the contrary is received from the bodies listed above, the foreigner is granted the permit she/he applied for.

The proceeding should be completed **within a month since the day of its initiation**, and if the case is particularly complex, **within two months**. Nonetheless, the relevant body may inform the foreigner about this deadline being extended, which is typical for cases related to family reunification. Under the EU directive concerning the right to family reunification, the relevant proceeding should be completed within 9 months, with the actual time being even longer in practice. It is essential, therefore, to collect all the necessary documents prior to submitting the application, thus avoiding the need to collect and send in additional documents in the course of an already initiated procedure.

When can a temporary residence permit be denied to a foreigner's family member?

In the course of the conducted administrative proceeding, the Voivode decides whether the said permit may be granted to the foreigner's family member. If all the requirements have been properly met, and no premises for denying the permit transpire, the Voivode shall grant the permit. There do exist, however, a whole number of circumstances under which the Voivode shall deny the permit, including the following:

- ✔ If the family member who is to be reunited with a foreigner residing in Poland does not meet the requirements under which the permit may be granted, or the circumstances presented in the application, which are the basis for seeking the permit, do not justify the person's stay within the territory of Poland for a period longer than 3 months (e.g. when the family member intends a short-time visit only).



A stay with one's own family is almost invariably considered to constitute a sufficient premise for applying for a residence permit.

- ✔ If the family member's personal data are found in the registry of foreigners whose stay within the territory of Poland is considered undesirable, or on the Schengen Information System (SIS) list of alerts.
- ✔ If national security and defense or the protection of public security and order might be threatened.
- ✔ If, in the course of the proceeding, the family member presents false data, untrue information, attaches documents containing untrue information, or gives false testimony.
- ✔ If the family member does not consent to be treated for a transmittable disease as mandated.
- ✔ If the application for a temporary residence permit is submitted during the family member's illegal stay within the territory of Poland.

The permit is also denied if the marital union which serves as the grounds for seeking the permit is found to have been concluded in order to **bypass the relevant provisions**.

An illegal stay in Poland cannot be considered a ground for denial of a residence permit when the permit is sought by the spouse of a foreigner benefiting from protection in Poland, provided that the family already existed in the foreigner's country of origin, and the family member was in Poland on the day when the application for international protection was submitted by the foreigner.

The permit is denied – what next?

The proceeding in the scope of granting a residence permit to a foreigner's family member may be concluded unfavourably in three different manners:

- ✓ The administrative body **refuses to initiate** the proceeding
- ✓ The administrative body **discontinues** the proceedings
- ✓ The administrative body **denies** the residence **permit**.

In the first case, the foreigner has the right to lodge a formal complaint against the administrative body's failure to act, whereas in the two remaining ones, she/he may lodge an appeal with a higher level administrative body (second instance), i.e. the Head of the Office for Foreigners. As administrative proceeding is a **two-instance proceeding**, every administrative decision may be appealed with an administrative body of a higher instance.

The relevant administrative body **refuses to initiate the proceeding** when the foreigner fails to submit all the documents necessary to initiate the proceeding along with her/his application, such as a photocopy of a travel document certified by a Polish consul to be a true copy of the original. In such a situation, the complaint against the administrative body's failure to act should be lodged directly with a higher instance administrative body, i.e. the Head of the Office for Foreigners. Having examined the case, the body of the second instance may set an additional deadline for the Voivode to examine the case, and request for the premises for the failure to act to be clarified and the persons responsible thereof to be identified.

The Voivode **discontinues the proceeding** in a situation where its further advancement would, for any reason, become irrelevant (e.g. due to the applicant's death). If, however, the applicant does not meet the premises stipulated by the law, or his/her data are included in the registries of persons whose entry into the country is to be denied (a blacklist of foreigners), the Voivode **denies the permit**. In both cases, the applicant may appeal the decision with an administrative body of a higher instance, e.g. the Head of the Office for Foreigners. The appeal is submitted via the body of the first instance, i.e. the Voivode who issued the decision which the applicant finds unsatisfactory. The appeal, therefore, must be submitted with the Voivode, within the un-exceedable time of 14 days since the day when decision of the administrative body of the first instance was received.

In the course of the appeal procedure, the foreigner's case is re-examined, as the procedure is not limited to a verification of the decision of the administrative body of the lower instance. The Head of the Office for Foreigners may, for instance, request that additional documents be submitted, or that the foreigner appear for a repeat hearing. On that basis, the administrative body decides if the decision of the body of the lower instance (i.e. the Voivode) should be **upheld, revoked, or changed**.

When the **decision is upheld**, this means that the authority of the higher instance has not found any grounds for changing the Voivode's decision, and has found the decision issued to be valid. The **decision is revoked** when the body of the higher instance in the course of the proceeding it conducted found the decision issued by the Voivode to be invalid, or issued on the basis of a proceeding conducted in an invalid manner. In such a situation, the case is

returned to the administrative body of the first instance to be re-examined, and the body is obliged to take the recommendations of the body of the higher instance into consideration when issuing a new decision. The **change of the decision** means that the administrative body of the higher instance found the Voivode's decision to be invalid, and evaluated the case differently. In such a situation, the body issues a new decision which "replaces" the decision issued by the body of the lower instance.

A complaint lodged with a court

If a foreigner is not satisfied with the decision of the Head of the Office for Foreigners, she/he has the right to lodge a complaint with a court. The court competent for the matters related to family reunification is the Voivodeship Administrative Court in Warsaw (***Wojewódzki Sąd Administracyjny w Warszawie***). The complaint must be lodged within an un-exceedable deadline of **30 days since the day when the foreigner received the second instance decision**, i.e. the decision issued by the Head of the Office for Foreigners. The complaint is lodged via this administrative body.

The court fee for lodging the complaint is PLN 300. It is possible, however, to apply for this fee to be waived. In order to do so, the foreigner needs to evidence in a designated application form that she/he does not possess financial means sufficient to settle the court fee without a detriment to his/her and his/her family's upkeep. Along with the complaint, the foreigner may file an application for a court-assigned attorney to be appointed to her/him, i.e. an attorney or a legal counsel who will represent the foreigner in the course of the court proceeding. Both the complaint and the application to receive legal assistance should be lodged in Polish. To draw up the complaint, the foreigner may seek help from one of the non-governmental organizations listed at the end of this publication.



For the application form to receive legal assistance, see the website of the Voivodeship Administrative Court in Warsaw (*Wojewódzki Sąd Administracyjny w Warszawie*), at <http://goo.gl/a1i2rj>

The permit is granted – what next?

The mere fact that a temporary residence permit has been granted is not sufficient to allow the foreigner's family's entry into Poland. To be able to do that, **all the family members are obliged to obtain visas first, issued by a Polish consulate**. In this case, a special type of visa is relevant, issued to exercise a temporary residence permit granted for the purpose of family reunification¹.

To obtain the visa, the member of the foreigner's family must submit the following documents at the Polish consulate:

¹ Visa stipulated in Art. 60, Par. 1, Subpar. 24 of the Act on Foreigners

- ✓ a completed visa application form,
- ✓ a current photograph,
- ✓ the decision of the relevant administrative body granting the temporary residence permit,
- ✓ documents confirming a source of stable, regular income in Poland,
- ✓ health insurance within the territory of Poland,
- ✓ a visa fee.

Additionally, the foreigner must present a valid travel document (passport).

Some consulates also require additional conditions to be met before a visa is issued, such as certain vaccinations to be received prior to travelling, or presenting a flight ticket booking. Hence, before you submit your application form, find out about the conditions under which the visa is issued on the embassy's/ consulate's website, via the phone, or in person at a Polish consulate in the given country.

Even though the family members of refugees and subsidiary protection holders are free from the obligation to evidence their income and present health insurance while applying for a residence permit², when applying for a Polish visa they do not receive any special treatment in this respect that would alleviate the evidence burden. This means that just like all other foreigners, in the course of the proceeding conducted by the Polish consul they are obliged to **evidence stable financial means** necessary to make a living in Poland within the period for which the visa is to be valid, and present **health insurance evidence**. From the Ministry of Foreign Affairs (*Mnisterstwo Spraw Zagranicznych*, MSZ in Polish) website the following application forms are available:

- ✓ a Polish visa application form at: (<https://goo.gl/4H2kz2>);
- ✓ a Schengen visa application form at: (<http://goo.gl/05DAXL>).

The consul may deny a foreigner a visa if she/he does not meet the necessary conditions under which the visa is obtained, does not confirm the purpose of her/his stay in a proper manner, or for other reasons, such as the foreigner's name being included on the SIS black-list, or entered in the registry of foreigners whose stay in Poland is considered undesirable, or when the foreigner submits false/untrue information in the course of the proceeding. In such a case, the foreigner has the right to **apply with the consul for her/his case to be re-examined**.

It is only after the visa has been obtained, that a foreigner's family member may legally enter the territory of Poland, and apply for his/her residence card to be issued on the basis of the granted temporary residence permit.

What rights does the foreigner's family member have upon arriving in Poland?

The temporary residence permit granted in order to facilitate family reunification is granted for the period of time covered by the temporary residence permit held by the foreigner

² Provided that the application for a residence permit is submitted within 6 months since the date when the foreigner was granted international protection within the territory of Poland.

whose family member has entered the territory of Poland. The permit is issued for a maximum time of three years when the foreigner who has been joined by a family member was granted one of the following:

- ✓ permanent residence permit,
- ✓ EU long-term residence permit,
- ✓ subsidiary protection,
- ✓ residence permit issued for humanitarian reasons,
- ✓ refugee status

The foreigner is then issued a residence card with an expiry date conforming with the expiry date of the permit he has been granted. The card contains the foreigner's personal data, his/her residence address, annotation confirming the right to be employed in Poland, and the expiry date.

The foreigners who have been granted a residence permit under family reunification procedure may take employment in Poland without the need to apply separately for a work³ permit, and children under 18 years of age are entitled to free education in Polish schools. Family members of foreigners granted a refugee status or of subsidiary protection holders are also entitled to social benefits. They also are entitled to be covered by the Individual Integration Programme provided that a relevant application is submitted with one of the Poviats Family Support Centres (*powiatowe centra pomocy rodzinie*). Such an application must be submitted within 60 days from the date when the temporary residence permit is granted.



Individual Integration Programme is aimed at aiding the process of a foreigner's integration in Poland, and is operated by the Poviats Family Support Centres (*powiatowe centra pomocy rodzinie*). Both financial assistance and non-material support are provided within the programme, including the assistance of social workers, specialised counseling, help in contacts with other institutions, Polish language courses, etc.

A family member joining the foreigner under the provisions on family reunification is entitled to stay in Poland for the time stipulated in her/his permit, i.e. up to 3 years. Prior to her/his permit's expiry date, she/he may apply for a new permit with a Voivode to have her/his legal stay in Poland extended.

Can a residence permit be withdrawn?

A temporary residence permit for a family member of a foreigner residing in Poland may be withdrawn under certain circumstances, resulting in the inadmissibility of the person's fur-

³ Under Art. 87, Par. 2, Subpar. 4 of the Act of 20 April 2004 on the promotion of employment and the institutions of the labour market.

ther stay in Poland and the necessity to leave the country. Simultaneously, the Border Guard authorities may also initiate a proceeding aimed at mandating the foreigner to return to the country of her/his origin which may, in turn, result in mandatory expulsion from Poland.

The circumstances in which the residence permit may be withdrawn are specified in the Act on Foreigners. The permit is withdrawn when:

- ✔ The purpose of the foreigner's stay that originally served as the basis for granting the temporary residence permit has ceased to be valid, e.g. the family ties with the foreigner who was joined by a family member have ceased to exist, e.g. in the occurrence of a divorce or death.
- ✔ The foreigner no longer meets the requirements under which the permit was granted e.g. no longer has a source of stable income in Poland.
- ✔ The foreigner has been entered into the registry of foreigners whose stay in Poland is considered undesirable.
- ✔ The national security and defense or the protection of public security and order are threatened.
- ✔ It has been found that in the course of the proceeding aimed at granting the temporary residence permit the person submitted an application containing false data or untrue information, testified false information or forged documents to be presented as genuine.

Just as in the case of being denied a residence permit, the foreigner also **has the right to lodge an appeal** if she/he does not agree with the decision. The appeal must be lodged within 14 days since the receipt of the decision on the permit being withdrawn. The appeal must be lodged with the Head of the Office for Foreigners via the Voivode who has issued the appealed decision.

Extending the residence permit

Prior to the expiry date of the temporary residence permit granted in relation with family reunification, an application for a new permit should be submitted. The new permit may be granted under the provisions governing family reunification or under other legislative premises stipulated in the Polish law, e.g. related to employment, studies undertaken at a Polish university, etc.

The law stipulates several situations in which a new permit may be sought even if, for various reasons, the relationship with the foreigner who was originally joined by the family member has ceased. Such a permit may be granted to the applicant if it is in her/his major interest in the occurrence of a divorce/separation from a foreigner whom she/he joined under the provisions on family reunification, or in the case of death of the foreigner who originally applied for the current applicant to be granted the residence permit (spouse, parent, etc.).



SECTION 2 – PRACTICE



WHAT DO YOU NEED TO KNOW TO GO SMOOTHLY THROUGH THE FAMILY REUNIFICATION PROCEDURE?

Agnieszka Krawczak-Chmielecka and Daniel Flis talk to Zuzanna Popielarska⁴, Integration Advisor with the Helsinki Foundation for Human Rights

Agnieszka Krawczak-Chmielecka – The Helsinki Foundation for Human Rights is one of the few organizations helping foreigners to go through the family reunification procedure. How many such cases do you foster?

Zuzanna Popielarska – So far, not many, as compared with the number of cases related to employment or legalizing someone’s stay in Poland under other relevant regulations.

A.K.Ch. – And why do you think is that?

Z.P. – The procedure remains relatively little known in Poland. This can be seen even on the institutional level. One person is enough to handle all such cases in the relevant department of any given Voivodeship Office. Quite commonly, even the staff of Polish consulates are little familiar with the family reunification procedure, as hardly ever they need to apply it in practice. Also, it is quite a demanding procedure for a foreigner when you consider how many documents must be gathered and presented to relevant authorities, and how much money has to be spent on it. Also, you need to be able to document having a relatively high income. Additionally, the definition of family as such is quite narrow in the Polish law, making a lot of people ineligible for it.

A.K.Ch. – And what are its benefits?

Z.P. – First and foremost, a person who, after being separated from their family, is reunited with them, simply feels more secure and grounded from a psychological point of view. After all, it is so important to us all to have our loved ones close to us. Because people feel better-grounded, this helps their integration with the host society. It is hardly surprising that the sense of being well-grounded positively correlates with integration success, as it has been proven beyond doubt by various studies, including those by the International Organization for Migration. For refugees, there is also the extra aspect of ensuring the security and protection of the family they left behind in a place where they might be under constant threat. There are places in the world where if you have been recognized as a political refugee by another country, it results in repressions against your family members at home.

⁴ Zuzanna Popielarska worked with the Helsinki Foundation for Human Rights as Integration Advisor on the “Navigating Poland II” project until May 2016.

A.K.Ch. – You have discussed the issue from a humanitarian and psychological angle. What are the advantages from the formal perspective? I’m asking because there are various ways of coming to Poland legally, all of them less complicated the family reunification procedure. Foreigners can come here under standard visa regulations, on an invitation, or simply as a tourist...

Z.P. – That’s right, and apply for a temporary residence permit later, on the grounds of marriage, or employment if you manage to find work. The main advantage of coming to Poland under the family reunification procedure is that the newly arriving person, joining a foreigner already living in Poland, is granted a temporary stay permit prior to arriving in Poland, and additionally for a longer period of time. This time will obviously depend on how long the foreigner bringing her or his family to Poland is entitled to stay here. If, for instance, there is a man who has a temporary stay permit valid for another 18 months, then his wife and children will be granted a permit covering the same length of time. A family may be granted a residence permit for a maximum period of 3 years.

A.K.Ch. – And what if the foreigner has a residence permit valid for a longer period of time, or even a permanent one?

Z.P. – Still, her or his family may only be issued with a permit for a maximum of 3 years, which can later be renewed.

A.K.Ch. – So, in your opinion, the biggest advantage for the family members is that already before arriving in Poland they are guaranteed they will be able to stay legally for a longer time, as opposed to going with the option where you come here for just 3 months with a regular visa first, and once already in Poland, apply for a residence permit.

Z.P. – Yes, that’s right.

A.K.Ch. – And are there any further advantages for the family members once they arrive and start living here?

Z.P. – Well, they can legally take up work in Poland without additionally having to apply for a work permit, and the children are entitled to free education in Polish public schools. This is a nod towards foreigners arriving in Poland so that they can live a normal life here, study, work if they want to, not just be a stay-at-home husband or wife. Family members of foreigners with a refugee status or granted subsidiary protection may also benefit from Individual Integration Schemes and social care.

A.K.Ch. – OK then, what is the biggest problem related to bringing your family to Poland under the procedure?

Z.P. – Apparently, it is a very lengthy procedure, and there are lots of details you need to pay attention to. Even if you are helped and assisted by a worker of a non-governmental organization or some other person, still you must carry out a whole number of actions necessary to make that happen. Also, the procedure requires the time and effort of the family members who intend

to come to Poland. It is they who must gather all the relevant documents, pay several visits at the Polish consulate, and complete all the relevant formalities while still in their country of origin.

Daniel Flis – Well, you know what, let’s pretend I am a foreigner now. Let’s imagine I am a citizen of India who has already been staying in Poland for a while, and now would like to bring his family here, let’s say his wife, children, parents and younger brother.

Z.P. – Right, and this is where problems begin. Like I said before, the definition of family assumed for the sake of this procedure is very limited. In fact, with some minor exceptions, only your wife or husband and your underage children or stepchildren are eligible for the procedure.⁵ If you were a minor according to the Polish law, you could be reunited with your parents staying in Poland. However, the regulations do not apply to children over 18 years of age, even if they are still studying and are financially dependent on their parents, or even if they are disabled. Also individuals living in the so-called partnerships are not recognized as family members.

D.F. – Even if these partnerships are registered and recognized in another country?

Z.P. – Correct. No formal or informal relationships other than marriage are recognized, regardless of the person’s sex. The Polish law does not recognize polygamous relationships or unions either, so you cannot bring to Poland your two wives, even if your country of origin recognizes the polygamous union. Neither are religious marriages recognized, unless they are simultaneously registered as civil ones.

D.F. – What should I do to be able to bring my wife (or husband) and children to Poland? Where do I even begin?

Z.P. – First, you need to check if you meet all the formal requirements. This means you need the right residence status. This can be a refugee status, subsidiary protection, or another kind of eligibility to stay in Poland.⁶ Importantly, you should have been staying in Poland for at least two years under two subsequent temporary residence permits, and your current permit must have been issued for a period not shorter than one year. Also, you need a stable income allowing you to support your family. Your family members must have insurance and accommodation in Poland. These requirements are waived for foreigners with a refugee status, but only for a period of six months from the moment of obtaining it. You must realize that in their case bringing family under this procedure means working against the clock.

D.F. – OK, so I have made sure that I meet all the requirements, and I have that in writing because I have gathered all the relevant documents.

Z.P. – Now, you have to make sure that your family members have travel documents, that is passports. This is an essential condition that has to be met to initiate the proceeding.

⁵ A detailed list of family members eligible for the family reunification procedure may be found at the pp. 9-10.

⁶ A detailed list of the residence titles that make a foreigner eligible for the family reunification procedure can be found at pp. 8-9.

D.F. – Can a passport be replaced in any way in case there is no way to get one issued, for instance in countries where there is a war at the moment?

Z.P. – Unfortunately not... Unless we are dealing with a refugee equipped with a Geneva passport, that is a special refugee travel document which is the only equivalent of a regular passport.

D.F. – So, if someone does not have a travel document, there is no way to initiate the family reunification procedure. Is it similar for any other documents?

Z.P. – Yes, it is the same for documents that confirm that you are, in fact, family, that is all your vital records such as marriage and birth/adoption certificates.

D.F. – Let's assume that the wife/husband and the children have passports and all the necessary certificates. What should they do with them?

Z.P. – First, they need to make an appointment at the Polish consulate. I always advise my clients to do it online, via the e-konsulat.gov.pl site. The site has several language versions, so not knowing Polish is not a problem.

A.K.Ch. - Right, but not everyone has access to the Internet.

Z.P. – Well, if you don't, then make a phone call to make the appointment. Consulate visits are by appointment only, you can't just walk in. Sometimes my clients find making an appointment difficult, so that is one of the things that I, or some other non-governmental organization worker, may help them with. I then contact the consul, explain what matter this is about and ask for the appointment. In the case of family reunification procedure, the first thing we will ask the consul for will be the certification of passport copies.

A.K.Ch. – And what if there is no Polish consulate in the country where the foreigner's family live?

Z.P. – There is no other way than to visit a consulate in another country. For example, Afghanistan falls into the jurisdiction of the Polish consulate in India, and Eritrea falls into the jurisdiction of the Polish consulate in Egypt. On site, a copy of the passport is made (the passports are photocopied page by page) and the consul stamps it to be a true certified copy. At this stage, it is especially important to watch out for any mistakes and prevent them, as correcting them later will be very costly and time-consuming. If the foreigner's family do not know the language(s) spoken by the consulate staff, it is best to ask someone for help. One of my clients brought me only a copy of the passport pages which contained any information, whereas the whole passport must be copied, every single page of it. His family had to revisit the consulate, even though it was located in another country than they lived in. On another occasion, the consul calculated some exorbitant sum to be paid for the certification of the copy being true to the original, because he understood they wanted each page certified separately.

D.F. – So that is not necessary?

Z.P. – No, the document should be certified as a whole. When each page is certified separately, the price rockets. So, you need to be aware from the very beginning what you really need and what you want to get. People are oftentimes nervous to dispute the consul because he or she is the person who will ultimately be deciding their case. In the case I have described to you, everything ended well, because we enquired with the consulate on behalf of the foreigner about the calculation they had issued. When we received the explanation, we were able to understand where the misunderstanding originated from, and ultimately our client paid only the relevant price according to the consulate's table of fees.

D.F. – Is the sum the same for every consulate?

Z.P. – Yes, in the case of passport copy certification the fee is fixed at € 30 per each passport.

D.F. - Fine, so I have the passport copies. What else do I need?

Z.P. – You need your vital records certificates lodged, in other words registered, in Poland. This includes the marriage certificate and birth / adoption certificates, as they prove that you are indeed members of one family. Nothing can replace these documents, Also, you need passport photographs of all the family members coming to Poland. If anyone has a picture in which she or he is wearing a headdress, such as hijab, for religious observance, this person must attach the submitted documents with a relevant statement. It is enough to explain in one sentence that the headdress is worn for religious observance. We have experienced a situation in which our client's wife felt discriminated against by the official dealing with her case because the statement was required. In fact, this is mandated by the Polish law, and as such cannot be waived. Sometimes the authorities that receive the applications for family reunification require a specimen signature of the family member who is to be brought to Poland.

D.F. – How should this be done?

Z.P. – You print out page 6 of the residence permit application form, and sign it in the relevant place in the presence of the consul. This document must be sent to Poland. Now, let me remind you that the application form as such has to be submitted by the foreigner who wants to bring her / his family to Poland, and it is she / he that signs it. However, the specimen signature of the person who is to be brought to Poland is necessary, as it will be later put on the residence permit card. This specimen may be provided later, when the foreigner's family has already arrived in Poland, yet sometimes authorities want to have it prior to issuing the decision granting the temporary residence permit, and this request must be complied with. This is why it's well worth remembering about and taking care of in advance, for instance while having the passport copies certified at the consulate, so as to avoid going there again. Providing your signature in the presence of the consul is treated as a guarantee of its authenticity.

D.F. – OK, so my family have already gathered all the relevant vital record certificates, passport copies, and photographs. How should they send all this to Poland? By fax, electronic mail or regular mail, what is best?

Z.P. – Photographs may be sent by email and printed in Poland, certificates and passport copies are best sent using some well-established courier / delivery company. These seem to be the safest transport routes. Passports as such must be kept by the family members because they are necessary to travel.

D.F. – The delivery company has delivered the documents to Poland and I have collected them. Where do I take them?

Z.P. – Well, first you need to look for a sworn translator who will translate the vital records into Polish.

A.K.Ch. – Where do I find one?

Z.P. – The Ministry of Justice website holds the complete sworn translators' list⁷. The documents may also be translated in their country of origin, but then they must be certified by the consul.

A.K.Ch. – Does it ever happen that a sworn translator of a given language into Polish is impossible to find?

Z.P. – This is extremely rare. In our Foundation, we have dealt with one such case, and the language in question was Urdu.

A.K.Ch. – And was the problem solved?

Z.P. – It hasn't been solved yet. It looks like the only solution will be the consul certifying the translation to be true to the original. But, like I said before, this situation is really exceptional.

A.K.Ch. – Right, there are other complications possible with languages which are exotic from the European point of view, especially ones that don't use the Latin script, or use sounds that cannot be rendered in our language.

Z.P. – Oh, yes. Obviously, there are certain norms telling how one language should be translated into another, and they have to be followed. Yet, sometimes in the case of such languages, names and surnames, which really are key here, may get translated in different ways in different documents, which will cause a number of problems. This is why when you get your documents translated, it is really essential to make sure that all the names and surnames are translated in the exact same way as they stand in the passport. It is best to simply show the translator your passport copy, and make sure she or he knows what the name and surname versions in it look like.

⁷ <https://bip.ms.gov.pl/pl/rejstry-i-ewidencje/tlumacze-przysiegli/lista-tlumaczy-przysieglych/search.html>

D.F. – The documents have already been translated, check. What should I do next?

Z.P. – You take them to the Registry Office, and apply to have them lodged. This may sound odd, but it simply means they have to be registered in the Polish vital records system by a Polish Registry Office of proper venue. Usually, you have to wait about a month to have your application considered. If time is key, then a special application may also be submitted on behalf of the documents' holder for the procedure to be sped up. This is the case especially for refugees, because, as we have discussed it earlier, time is of utmost importance for them.

D.F. – So, I already have all the documents necessary for all my family members, including the certified passport copies, photographs, signatures certified by the consul, and a confirmation of the vital records having been lodged in Poland. I also have the documents confirming my status in Poland, my income, insurance, and place of residence.

Z.P. – Yes, this when you can finally submit the application for a temporary residence permit for your family members, attaching all the documents we have discussed. The application is submitted with the Voivodeship Office of proper venue, namely with the Foreigners Department (*wydział do spraw cudzoziemców* in Polish). The Voivode will issue a decision within several months. In the meantime, you may be asked to come to a special interview, even though this does not always apply.

D.F. – Really? What questions can I expect to hear?

Z.P. – The officials will try to verify, for instance, if your marriage is “for real”. They may ask questions like “How did you meet your wife?”, “Can you tell us about your wedding ceremony? What was it like?”, “How do you keep in touch with your wife? How often?”, “Do you stay in touch with your children?” Also, there can be questions about your situation in Poland, like “What is it that you do in Poland?”, “Where do you work?”, “What do you expect your and your wife’s life in Poland to be like?”. I have accompanied one of my clients to one such interview. Actually, the atmosphere was very friendly. It is my impression that such interviews are less detailed than those held when someone is applying to have her/his stay in Poland legalized on the grounds of marriage.

D.F. – OK, let’s assume everything went well. My whole family has been granted a residence permit in Poland. Do we need to comply with anything else?

Z.P. – The family members must apply for visas at the Polish consulate. Again, the visa application form may be generated and sent via the e-konsulat.gov.pl site. The form must be attached with a number of documents, including the residence permit issued by the Voivode, biometric photographs, documents confirming that you have a place of residence in Poland, health insurance, and a stable income. These are the same documents which earlier had to be presented by the foreigner originally staying in Poland and applying to bring her/his family over. But sometimes given consulates have additional requirements, so it is well worth check-

ing on the relevant consulate's site what documents must be submitted, so that you go prepared and have everything with you.

D.F. – Really? What can such extra requirements include?

Z.P. – For example, some consulates may require the other spouse's, that is the wife's or the husband's, consent for their common child to travel abroad with the other parent. Citizens of some countries may be required to receive certain vaccinations before they travel to Poland. Sometimes, it is necessary to book return flight tickets. Mind you, book, not purchase, so they can be given up later.

D.F. – How long do you wait for a visa?

Z.P. – 14 days, but in some cases this can take longer, up to 30 days. Then, your family members must go back to the consulate to pick them up. The fee for every single application form which is submitted is € 60.

D.F. – Yes, it seems there are quite a few visits at the consulate necessary. Do you have to go in person every single time? Every single family member, including the children?

Z.P. – Basically, yes. The visa application form must be submitted in person, and collected in person. Children may be represented by their parents or legal caretakers, so it is not necessary to take them to the consulate, which definitely makes things easier when the consulate is situated far away from where you live. And you can ask someone else to get the passport copy certified at the consulate for you, you don't have to go there personally to have it done.

D.F. – Can there be any difficulties while applying for a visa during the final stage of the family reunification procedure?

Z.P. – Well, from our experience, consuls may have insufficient knowledge concerning the family reunification procedure and the related regulations. Sometimes, in turn, it is their interpretation of some regulations that may vary, then I will try to convince them to adopt an interpretation more favourable for the applicant. For instance, I will explain that a given person has already gone through the entire process of being granted the refugee status or residence permit in Poland, and as a result has been checked through and through, which means that she or he has adequate financial and accommodation means and has been verified not to pose any threat. But, I have to say, occasionally there is nothing that can be done to prevent the consulate from issuing a negative decision, justifying it with an annotation stating that, here I quote: "The foreigner will not return to her/his country of origin before their visa expires".

D.F. – How can the consulate be sure?

Z.P. – They obviously can't. But the decision is legally binding.

D.F. – Can you appeal it?

Z.P. – You can apply for your visa application to be re-examined, at an extra cost. The verification is done by another official, but in practice I have never come across a situation where the decision was changed.

D.F. – What is the total cost related to this procedure? How much is it going to cost me?

Z.P. – You have to do the math yourself. Even before you initiate the family reunification procedure, you must make sure that you will be able to meet the costs. The first expense you are going to have to cover will be your family members' trip to the consulate and back home, sometimes with overnight accommodation when the location is remote. You must bear in mind that there may be several trips necessary altogether. Another expense are biometric photographs. Having your passport copies certified costs € 30 per passport. Then, you have to pay for the courier delivery, naturally the more remote the destination, the larger the delivery cost. Sworn translation usually costs PLN 80 – 150 per page (1 page of sworn translation is calculated as 1125 characters including spaces), but this depends on the language. The rarer the language, the more expensive the translation tends to be. Having your marriage or birth act lodged with a Registry Office in Poland costs PLN 160. Temporary residence application cost is PLN 340 per every family member. The visa application fee is € 60, but sometimes waivers and discounts may be applied. Then, finally, there is the cost of your family's trip to Poland. All of this has to be covered by you and your family.

D.F. – This does sound like quite a lot, even without calculating the exact cost. But supposing we can work all of this out, and finally my family arrive in Poland, is there anything else that has to be taken care of?

Z.P. – You must collect your residence cards, which are the documents confirming that your stay in Poland is indeed legal. You can collect them at the Voivodeship Office. It is a good idea to schedule an appointment in advance, because once you arrive in Poland, it may turn out that there is a long waiting time. It is especially true in Warsaw where most foreigners live.

A.K.Ch. – How many times have you been able to help someone to go through the family reunification procedure successfully?

Z.P. – Actually, we have had very few successful cases, perhaps just several. Oftentimes, people leave our place very disappointed because they suddenly realize they simply can't afford the expenses necessary to go through the procedure, or because some of their family members don't have a passport and can't get one because of the war in their country, and there is simply nothing they can do about it.

A.K.Ch. and D.F. – Well, thank you for talking to us.

THE OFFICIAL'S PERSPECTIVE

Agnieszka Mikulska-Jolles talks to Agata Ewertyńska, Deputy Head of the Foreigners Department of the Mazowieckie Voivodeship Office, about the family reunification procedure

Agnieszka Mikulska-Jolles- In the countries of Western Europe, the family reunification procedure is a very popular legal route for enabling and legalizing a foreigner's stay. Tens of thousands of foreign nationals yearly arrive in countries like Italy, Spain or France under this procedure. What is the situation like in Poland? How many applications for family reunification are submitted with the Mazowieckie Voivodeship Office? How many of them are a success?

Agata Ewertyńska - Yes, you are right, this form of legalizing a foreigner's stay in Poland is not as popular yet as, for instance, legalizing one's stay on the grounds of finding employment here. It is our prognosis, however, that along with the increasing number of temporary residence permits granted to foreigners, also the number of individuals wanting to bring their family members to Poland will grow consistently. This is all the more probable considering that foreigners granted a temporary residence permit through the family reunification procedure are waived from the obligation to apply for a work permit separately. Over 2000 applications for family reunification were submitted with the Mazowieckie Voivodeship Office in 2015. We issued nearly 500 positive decisions in the first 2 months of 2016 alone.

A.M. – Is this procedure especially popular with migrants from any given countries?

A.E.- The procedure is most often pursued by Ukrainian and Vietnamese nationals. We also see a growing number of applications submitted by the citizens of Russia and Turkey.

A.M.- What mistakes do foreigners most typically make when going through the procedure? What are the most commonly encountered difficulties?

A.E. – The most common problem seems to be related to the signature which has to be put on the application. Foreigners often have trouble understanding whose signature is actually required. For instance, the application submitted for a wife residing in another country needs to be signed by the husband who is living in Poland. If his signature is missing, from a formal point of view this is an omission, resulting in the Voivodeship Office being forced to request the relevant person to appear at the office to sign the application, thus unnecessarily prolonging and delaying the procedure. Sometimes, foreigners declare a different address in the application form than their actual place of residence. This is due to their confusion with the terms "place of actual residence" (*miejsce pobytu* in Polish) and "place of domicile" meaning formally registered residence (*miejsce zameldowania* in Polish). As a result, they are requested to make an appearance at the office to clarify. Another problem is the necessity to submit a separate application for a residence card after the person in question arrives in Poland. Owing

to the new card template, the person is required to appear at the office in person, to have her/his fingerprints taken, and provide a specimen signature.

A.M. – In the course of the procedure it is necessary to present a sworn translation of relevant Vital Records into Polish. What can be done in a situation where no sworn translator of a given language can be found in Poland?

A.E. – This is a situation we have not encountered so far. Many countries issue multi-lingual documents. A translation conducted by a translator abroad may be certified by the Polish consulate or by a sworn translator in Poland.

A. M. – Can a foreigner intending to bring her or his family to Poland be requested to appear at the office for an interview? If so, what kind of questions can be expected?

A.E. – We invite foreigners to attend an interview to clarify their place of actual residence, criminal record within the territory of Poland, or to examine whether a given marriage is not fictional. When the authenticity of a marriage is being investigated, the foreigner may expect questions concerning their spouse, their joint household, or their common plans for the future.

A. M. – In some cultures marriages are concluded by individuals who hardly know each other, as by that country's custom the wife/husband is selected by one's parents, and the future spouses are not even allowed to meet in private before the wedding ceremony takes place. Shortly after such marriage, it may be difficult to prove its authenticity. How do officials handle such cases and differentiate such circumstances from those where the sole purpose of the marriage was to bypass migration regulations?

A.E. – Our staff receive special training in matters related to multiculturalism and handling cases of customers from various cultural backgrounds. This helps us to tell apart a custom practiced in a given country or culture from an attempt at bypassing the regulations with the sole purpose of legalizing someone's stay in Poland. Whenever we come up against something that is new to us, we search for relevant information on our own. It is indeed essential for us to be able to place a given family in an adequate cultural context, hence all the trainings and self-education in this respect.

A.M. – Sometimes in the course of the administrative proceeding a foreigner provides fraudulent information, e.g. related to her or his income. Or someone attempts to bring to Poland someone else as a family member, even though they are not, or are not eligible for the procedure, for example due to age, and procures false documents to this effect. What may be the consequences of such fraudulent actions?

A.E. – Providing false information or presenting fake documents results in a denial of a residence permit. If a suspicion arises that a foreigner is using a fake, fraudulent or tampered

document, or has testified untrue information, failed to provide true information, or presented false information, we notify the Prosecutor's Office, and consult relevant administrative bodies to verify the documents in question and the information they contain.

A.M. – Is it possible that a given person, a family member of a foreigner living in Poland, is granted a residence permit, yet the consul denies her or him a visa? If so, what can be done in such a situation?

A.E. – We do occasionally come across situations where a foreigner has been granted a temporary residence permit, but is not able to come to Poland due to being denied a visa by the consulate. In the case of a visa denial, the foreigner is entitled to submit an application for her or his case to be re-examined by the consul. This application must be submitted within 14 days from the date of the receipt of the negative decision.

A.M. – Well, thank you for talking to me.



IMPORTANT NOTICE: Currently, the Polish law does not allow an appeal against the consul's decision to the administrative court. In June 2016, the Supreme Administrative Court submitted a prejudicial question with the European Court of Justice concerning the conformity of Polish regulations with the Union law as regards the lack of the possibility to appeal the consul's decision denying a visa to a foreigner.

ATTACHMENTS:

LEGAL ACTS RELATED TO THE FAMILY REUNIFICATION PROCEDURE:

- Act of 12 December 2013 on Foreigners [in Polish]
- <http://goo.gl/DLGjui>
- Regulation of the Minister of Foreign Affairs of 18 December 2015 on Consular Fees
- <https://goo.gl/MjBZpZ>
- Council Directive 2003/86/EC of 22 September 2003 on the Right to Family Reunification
- <http://goo.gl/UZpOq8>

SELECTED PUBLICATIONS AND MULTIMEDIA MATERIALS:

- Białas Jacek i inni, Resident Legalisation and Employment, Helsińska Fundacja Praw Człowieka, Warszawa 2015, available at: <http://goo.gl/ZNYyv1>
- The whole Family in Poland – an educational film on the procedure of family reunification, produced by the Helsinki Foundation for Human Rights, available at: <https://goo.gl/SuHg5d>
- European Legal Network on Asylum, *Information Note on Family Reunification for Beneficiaries of the International Protection in Europe*, ECRE, July 2016, available at: <http://goo.gl/VSBwOZ>
- Information on family reunification according to Migrant Integration Policy Index (MIPEX) reviews, available at: <http://www.mipex.eu/family-reunion>
- Communication from the Commission to the European Parliament and the Council of 2014 on guidance for application of Directive 2003/86/EC on the right to family reunification, available at: <http://goo.gl/N1vdW0>
- Małżeństwo i łączenie rodzin a legalizacja pobytu w Polsce, Urząd do Spraw Cudzoziemców, Warszawa.
- Nadużywanie prawa do łączenia rodzin w Polsce: fikcyjne małżeństwa i fałszywe deklaracje ojcostwa. Raport przygotowany przez Krajowy Punkt Kontaktowy Europejskiej Sieci Migracyjnej, Warszawa. Kwiecień 2012, available at: <http://goo.gl/Pltkwl>
- Niżyńska Aleksandra, „Łączenie rodzin cudzoziemców. Regulacje prawne i praktyka wybranych krajów europejskich”, Instytut Spraw Publicznych, Warszawa 2015, available at: <http://goo.gl/Jsxws5>
- Report from the Commission to the Council and the European Parliament of 8 October 2008 on application of Directive 2003/86/EC on the right to family reunification, available at: <http://goo.gl/RJJWwP>

VOIVODES AND THEIR ADDRESSES

Dolnośląski Urząd Wojewódzki

ul. Powstańców Warszawy 1

Wrocław

<http://www.duw.pl/>

Kujawsko–Pomorski Urząd Wojewódzki

ul. Moniuszki 15-21

Toruń

<http://www.bydgoszcz.uw.gov.pl/>

Lubelski Urząd Wojewódzki

ul. Spokojna 4

Lublin

<http://www.lublin.uw.gov.pl/>

Lubuski Urząd Wojewódzki

ul. Kazimierza Jagiellończyka 8

Gorzów Wielkopolski

<http://www.lubuskie.uw.gov.pl/>

Łódzki Urząd Wojewódzki

ul. Piotrkowska 104

Łódź

<http://www.lodzkie.eu/>

Małopolski Urząd Wojewódzki

ul. Basztowa 22

Kraków

<https://www.malopolska.uw.gov.pl/>

Mazowiecki Urząd Wojewódzki

ul. Marszałkowska 3/5

Warszawa

<https://www.mazowieckie.pl/>

Opolski Urząd Wojewódzki

ul. Piastowska 14

Opole

<http://www.opole.uw.gov.pl/>

Podkarpacki Urząd Wojewódzki

ul. Grunwaldzka 15

Rzeszów

<https://rzeszow.uw.gov.pl/>

Podlaski Urząd Wojewódzki

ul. Mickiewicza 3

Białystok

<http://www.bialystok.uw.gov.pl/>

Pomorski Urząd Wojewódzki

ul. Okopowa 21/27

Gdańsk

<http://www.gdansk.uw.gov.pl/>

Śląski Urząd Wojewódzki

ul. Jagiellońska 25

Katowice

<http://www.katowice.uw.gov.pl/>

Świętokrzyski Urząd Wojewódzki

ul. IX Wieków Kielc 3

Kielce

<http://www.kielce.uw.gov.pl/>

Warmińsko-Mazurski Urząd Wojewódzki

ul. Piłsudskiego 7/9

Olsztyn

<http://www.uw.olsztyn.pl/>

Wielkopolski Urząd Wojewódzki

al. Niepodległości 16/18

Poznań

<http://www.poznan.uw.gov.pl/>

Zachodniopomorski Urząd Wojewódzki

ul. Wały Chrobrego 4

Szczecin

<http://www.szczecin.uw.gov.pl/>

NON-GOVERNMENTAL ORGANIZATIONS PROVIDING LEGAL ASSISTANCE TO FOREIGNERS:

Helsińska Fundacja Praw Człowieka (Helsinki Foundation for Human Rights)

ul. Zgoda 11, 00-018 Warszawa

tel.: +48 22 556 44 66 (pon.- pt. godz. 10⁰⁰- 15⁰⁰)

fax: +48 22 556 44 51

Stowarzyszenie Interwencji Prawnej (Association for Legal Intervention)

ul. Siedmiogrodzka 5/51, 01-204 Warszawa

tel.: +48 22 621 51 65

e-mail: biuro@interwencjaprawna.pl

Centrum Pomocy Prawnej im. Haliny Nieć (Halina Nieć Centre for Legal Assistance)

ul. Krowoderska 11/7, 31-141 Kraków

tel.: +48 12 633 72 23

fax: +48 12 423 32 77

e-mail: biuro@pomocprawna.org

Fundacja Instytut na rzecz Państwa Prawa (Rule of Law Institute Foundation)

ul. Chopina 14/70, 20-023 Lublin

tel./fax: +48 81 743 68 05

e-mail: status@panstwoprawa.org

Caritas Archidiecezji Białostockiej (Caritas of the Archdiocese of Białystok)

ul. Warszawska 32, 15-139 Białystok

tel.: +48 85 732 55 53

e-mail: migranci-bialystok@caritas.pl

Migrant Info Point

Ul. Św. Marcin 78, pok. 421.

61-809 Poznań,

tel.: + 48 503 979 758

Centrum Wsparcia Imigrantów i Imigrantek (Centre of the Assistance for Immigrants)

ul. Gdyńskich Kosynierów 11, lok.1

80-866 Gdańsk

tel.: + 48 503 979 758

e-mail: centrum@cwii.org.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).

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