

## **Immigration to Poland in the light of the Act of December 12, 2013 on foreigners**

### *Imigracja do Polski w świetle ustawy z dnia 12 grudnia 2013 roku o cudzoziemcach*

#### **Abstract:**

The subject of this study is the analysis of the Act on foreigners from 2013 as the latest legal document regarding immigration to Poland. The Act clearly sets out the rules and conditions for entry of migrants, their stay in Poland, transit and departure from it, as well as the procedure and competent authorities in these matters. Thus, it reflects the essence and specifics of the migration policy undertaken by the Polish government. The most important issues are the consequences of changes in the areas of permanent and temporary residence, work and study as well as amendments. The aim of the study is to present not only the provisions of the Act referring to foreigners, but also its implementation on the formal and pragmatic level.

#### **Key words:**

immigration, Act of foreigners, migration law

#### **Streszczenie:**

Przedmiotem niniejszego opracowania jest analiza ustawy o cudzoziemcach z 2013 roku, jako najnowszego dokumentu prawnego dotyczącego imigracji do Polski. Ustawa wyraźnie określa zasady i warunki wjazdu migrantów, ich pobytu w Polsce, przejazdu i wyjazdu z niej oraz tryb postępowania i organy właściwe w tych sprawach. Tym samym, odzwierciedla istotę i specyfikę polityki migracyjnej podjętej przez polski rząd. Najważniejsze kwestie to konsekwencje zmian w obszarach pobytu stałego i czasowego, pracy i nauki oraz nowelizacji. Celem opracowania jest przedstawienie nie tylko zapisów ustawy odnoszących się do obcokrajowców, ale również jej realizacja w płaszczyźnie formalnej i pragmatycznej.

#### **Słowa kluczowe:**

imigracja, ustawa o cudzoziemcach, prawo migracyjne

## 1. Preliminary remarks

The year 1989 was crucial in the Polish migration law. The government faced a huge challenge to create the law from scratch, which will solve the issue of the sudden movement of people and the return of citizens after the war. From that moment, the state is trying to improve the regulations concerning foreigners. This is evidenced by a number of laws regarding foreigners and their functioning in the state, which are constantly amended as needed.

Initially, these were international agreements and laws regulating work permits, the creation of the Border Guard or a representative for refugees. The most important documents signed by Poland are the Geneva Convention of 1951 and the New York Protocol of 1967. The next step was the amendment to the Act on Foreigners of 1963, which introduced provisions constituting the basis for conducting administrative proceedings against foreigners. Poland also joined the International Organization for Migration (IOM) and signed an agreement with Germany on cooperation in terms of the effects of migration movements. In later years, the Office for Migration and Refugees at the Ministry of the Interior (currently changed into a department) and the Council for Refugees were created. In 1997, a new law on foreigners was established, which introduced mainly new types of residence permits and regulated the issues of refugee proceedings and the repatriation procedure. In connection with the future membership in the European Union, in 2003, another act on foreigners and a law on granting protection to foreigners on the territory of the Republic of Poland was introduced. Its main task was to adapt the regulations to the EU requirements. Since 2006, the Polish labour market has been liberalized for citizens of Eastern countries. The entry into the Schengen area had a large share in this, which allowed easier and faster access to the markets of Western countries. Further amendments and changes in the legal, political and institutional area led to the need to include them in a public document<sup>1</sup>.

The latest Act on foreigners<sup>2</sup> has been prepared by the Ministry of Interior. The Seym of the 7th Term of office adopted it on December 12, 2013 and it entered into force on May 1, 2014. The only exception are the provisions regarding the amendment to the Act of October 12, 1990 on the Border Guard, which entered into force on the day of announcement. The adopted act repeals the existing Act of June 13, 2003 on foreigners. The Act concerns third-country

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<sup>1</sup> R. Stefańska, M. Szulecka, *Rozwój polityki migracyjnej Polski: otwarcie granic – regulowanie imigracji – kontrolowane otwarcie*, „Biuletyn Migracyjny”, 2014 No. 25, p. 8.

<sup>2</sup> Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach (Dz.U. 2013 item. 1650).

citizens, who in Poland are subject to the obligation to legalize their stay and Polish employers who employ foreigners.

The document consists of thirteen sections divided into chapters and 522 articles. This layout was to facilitate its application and subsequent amendment. However, the new law, according to J. Jagielski, „overwhelms with its size and at the very beginning makes an impression that it is complicated and difficult both for the authorities, and for the people”<sup>3</sup>. The Act contains more than three times more articles than the law previously in force. In addition, the Act is not complete, some aspects are regulated under other legal acts<sup>4</sup>. The first section is made up of general rules and terminology, and the next one defines the tasks and competence of the Head of the Office for Foreigners. The articles of the third section discuss the rules of border crossing by foreigners, including local border traffic and the function of invitations. The fourth section, in accordance with its title „Visas”, refers to all legal formalities regarding this form. The fifth and sixth parts are a set of regulations regarding temporary, permanent and long-term resident permits of the European Union. The next sections concern the control of the legality of the foreigner’s stay, the obligation to return and detain him and place him in guarded institutions and detention centres. The last three sections include the register of foreigners, carrier’s liability and amending, transitional and final provisions.

Legal and institutional solutions adopted in the Act are part of the assumptions of Polish migration policy set out in the document „Poland’s migration policy, current status and postulated actions” (prepared by the Migration Team), which was adopted by the Council of Ministers on July 31, 2012. The solutions included in the project were aimed at improving the migration management system and adjusting the migration policy to the increasing number of immigrants. Moreover, Poland does not have complete freedom in establishing migration law. As a member of the community, it is obliged to take into account the regulations and requirements of the European Union and the standards of the international law. The main assumption was to implement the provisions of the EU acts and directives into the Polish legal system. The government also drew attention to the multiple amendments of the previously binding Act and, as a consequence, the casuistic form. Therefore, it sought to regulate issues concerning foreigners in a coherent and clear manner. However, in March 2017,

<sup>3</sup> J. Jagielski, *Kilka refleksji na temat stanu i perspektywy polskiego prawa o cudzoziemcach*, w: *Status prawnego cudzoziemca w prawie międzynarodowym i publicznym. Implikacje w prawie Unii Europejskiej i polskim porządku prawnym*, (eds.) O. Łachacz, J. Galster, Olsztyn 2013, p. 225.

<sup>4</sup> J. Chlebny, *Ustawa o cudzoziemcach. Komentarz*, Warszawa 2015, p. 7.

the Minister of Interior and Administration, Mariusz Błaszcza<sup>k</sup>, annulled the document „Poland’s migration policy, current status and postulated actions”, on which the assumptions presented in the Act of December 2013 were based. In his opinion, it does not fulfil its role and does not take into account the current migration situation in Europe. The Ministry of Interior and Administration emphasizes that the study does not provide an opportunity to respond to the challenges that took place in 2015. It is necessary to start work on a new vision that will cope with the migration crisis that has affected the European Union and economic immigration from Ukraine. The most important aspects to be taken into account in the creation of the new strategy are: a clear distinction between refugees and economic migrants, opposition to the automatic relocation of migrants from the Member States, and a specific migration policy towards Ukrainian citizens<sup>5</sup>.

## 2. Selected provisions of the Act

The Act of December 12, 2013 on foreigners first and foremost systematizes the existing regulations and updates them to adapt to changing conditions. Poland is more and more often perceived by foreigners, mainly from the eastern order, as the target country. Therefore, changes were needed, among others, in entry conditions, job opportunities on the Polish market and studies at Polish universities.

The Act defines the rules and conditions of entry of migrants, their stay in Poland, arrival and departure from it, as well as the procedure and competent authorities in these matters<sup>6</sup>. The document also contains a set of statutory terms related to the migration movement. In comparison with the previous act from 2003, changes occurred in the terminology „temporary residence permit”, replaced by „residence permit for a fixed period”, while „permanent residence permit” – „permit to settle”. The first section includes the functions of the Border Guard. Changes concerning this entity oscillate around illegal immigration. Moreover, the creation of the Border Guard centres is planned as units which aim is to carry out activities for the whole formation, in a dimension that goes beyond the territorial competence of the Border Guard units. The modification came into force on December 30, 2013, which resulted from

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<sup>5</sup> <<https://mswia.gov.pl/pl/aktualnosci/15912,Potrzebne-jest-stworzenie-nowej-polityki-migracyjnej.html>>, [Access: 16 November 2017].

<sup>6</sup> Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach (Dz.U. 2013 item 1650), Art. 1.

the necessity to ensure the possibility of efficient creation of these units in the period before the new regulations of the Act on foreigners came into force.

The main body set out in the Act is the Head of the Office for Foreigners supervised by the minister competent for internal affairs. The tasks of the Head of the Office for Foreigners are extensive, and the most important one is the issuing of decisions and provisions on the entry or stay of a foreigner in Poland and the consideration of appeals against decisions and complaints against the issued orders. He also provides the competent authorities of other Schengen states with information on migrants, as part of the Schengen Information System and the Visa Information System, controls the performance of specific tasks by voivodes and provides the competent authorities of the European Union Member States with information on the foreigner's temporary stay if he intends to continue or supplement his studies undertaken in Poland in these countries. The diplomat acts as a contact point for transferring information about immigrants to the competent authorities of other European Union Member States<sup>7</sup>.

Subsequent articles refer to the obligations imposed by the Polish law on migrants crossing the border. The foreigner must have a valid travel document, valid visa or other document entitling him/her to enter and stay, permit to enter or stay in another country, in case of transit. The migrant is also obliged to present the purpose and conditions of the planned stay, to have a valid document confirming health insurance and cash to cover travel expenses. Refusal to enter the territory of the state is granted to migrants who do not have the above-mentioned documents or cash, have used an acceptable period of stay of 90 days in each period of 180 days or pose a threat to public health or national security of Poland and the European Union. The decision on the refusal of the foreigner's entry is issued by the commander of the Border Guard post<sup>8</sup>. Foreigners may also cross the border as part of local border traffic. The permit may be issued to residents of the border area who meet certain clearly defined conditions<sup>9</sup>.

A foreigner in Poland can obtain a national or Schengen visa. The national visa entitles to entry, stay or several consecutive stays, lasting no more than 90 days in total. The Schengen or national visa according to Art. 60 is issued, among others, for tourism purposes, visiting family or friends, participating in sports events, running a business, doing work or studying, transit or repatri-

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<sup>7</sup> Ibid., Art. 22.

<sup>8</sup> Ibid., Section III, Chapter 1.

<sup>9</sup> Rozporządzenie (WE) nr 1931/2006 Parlamentu Europejskiego i Rady z dnia 20 grudnia 2006 r. ustanawiające przepisy dotyczące małego ruchu granicznego na zewnętrznych granicach lądowych państw członkowskich i zmieniające postanowienia Konwencji z Schengen (L 405/1), Art. 9.

tion<sup>10</sup>. Refusal to issue visas takes place from similar premises discussed with the foreigner's right to enter the territory of Poland. The national visa is issued by the consul, while the Schengen visa is issued by the commander of the Border Guard post.

In terms of temporary stay, many modifications have been made compared to the previous law. The permit is issued mainly for the purpose of performing work, running a business, learning and conducting research as well as other circumstances that require short-term stay. The period of this stay was extended by one year, i.e. from two to three years. A foreigner does not have to present a legal title to the flat s/he occupies, but only to show that such a place is provided. The procedure for granting residence permits has been accelerated. However, the Act introduces the obligation to submit the application personally and not via the Consul. Failure to meet this obligation and remain outside of Poland gives grounds for refusal to consider the application. This requirement is justified by new solutions in the introduction of biometric data, e.g. collecting fingerprint<sup>11</sup>.

A number of transformations have been implemented in the field of work and study. The first is primarily the possibility of getting a work permit and staying under one procedure, and not as it was previously – two-stage. The employer first had to obtain a work permit for a foreigner who then applied for a fixed-term visa. Currently, both permits are contained in one document. A new improvement is the possibility of changing the employer, without the consequences of withdrawal of the dismissal and the right to a month without employment. Another facilitation is the possibility of applying for a temporary residence permit in a single procedure for a foreigner staying in Poland in connection with the conducted business activity. In this case, the criteria for examining the fulfillment of the conditions for obtaining such a permit have also been simplified and objectified. For those studying in the first year, a residence permit is now granted for 15 months, while for students continuing education for a period of three years. Graduates from Polish universities have one year to find a job, which is an improvement that was not binding earlier<sup>12</sup>.

Permanent residence permit, according to the Act, is granted to a foreigner who stays in Poland for a period of 10 years on the basis of a permit for a tolerated stay. A foreigner who has been married to a Polish citizen for at least three years also has this privilege. A long-term resident's EU residence per-

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<sup>10</sup> Ustawa z dnia 12 grudnia..., Section IV.

<sup>11</sup> Ibid., Section V.

<sup>12</sup> Ibid., Chapter 4-7.

mit for an indefinite period can be obtained by a person who has been residing legally and permanently in Poland for at least 5 years and has a source of permanent income and health insurance. The issue of human trafficking has not been omitted. Victims may obtain a permanent residence permit after just one year in the territory of the country on the basis of a temporary residence permit. Refugees must wait for a permanent residence permit not less than 5 years from submitting the application. Unfortunately, the requirement to know the Polish language, which is officially confirmed or a certificate of completion of the appropriate school, has been introduced<sup>13</sup>. Persons who do not have the opportunity to legalize their stay in the abovementioned forms are assisted by regulations implementing some of the assumptions of the Convention for the Protection of Human Rights and Fundamental Freedoms and the Convention on the Protection of Child's Rights.

The Polish state keeps records of both those who were granted entry permits and those who were refused entry and detained in the border area. The list of foreigners whose stay in the country is undesirable is conducted by the Head of the Office for Foreigners. The list includes a foreigner if s/he has an entry ban, has been sentenced by a valid verdict, his/her entry would be a violation of international agreements or state security<sup>14</sup>. The Act does not exclude penalties for carriers who deliver foreigners to the border do not make sure that such entry is possible.

### **3. Amendments to the Act**

The Polish government has issued many regulations to the Act of December 12, 2013. Most of them were issued in April 2014, when the law has not yet entered into force. They mainly concern the forms of application forms for both foreigners and entities listed in the Act. The changes are also connected with the initial under-development of the Act and the evolution of the needs of the migration policy. The provisions of the Act on foreigners, according to the Internet System of Legal Acts, change seventeen other acts. Often the changes are negligible and result from the modification of the wording of the rules, names and errors. In case of introducing many changes that make the act uncluttered,

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<sup>13</sup> Ibid., Chapter 8-9.

<sup>14</sup> Ibid., Art. 435.

a new act with a uniform text is introduced. The unified text of October 30, 2017 is now in force<sup>15</sup>.

The most extensive amendment is the Act of November 24, 2017 amending the act on foreigners and certain other acts<sup>16</sup>. The amendment came into force on February 12, 2018. The changes are primarily aimed at implementing the directive of the European Parliament and the EU Council on the conditions of entry and residence of third-country citizens (from outside the EU) as part of an intra-corporate transfer. In addition, the Act improves the legal framework for managing migration in Poland. In order to implement Directive 2014/66/EU, two new types of temporary residence permits were issued, which will be issued by provincial offices to perform work and to use long-term mobility as part of an intra-corporate transfer. In addition, provisions regarding the so-called short-term mobility of foreigners holding residence permits issued by other EU member states with the annotation „ICT”<sup>17</sup> have been introduced. One of the characteristics of new types of temporary residence permits will be the principle that the application to the voivode for their granting will be allowed only to the receiving unit in which the foreigner is to work. This entity will also be the sole party to the proceedings for granting these permits. A separate application form has been planned, which is adapted to the specifics of the new type of permits. In the case of a temporary residence permit, in order to perform work as part of an intra-corporate transfer, the foreigner will have to stay outside the territory of the Member States of the European Union. After granting him the permission, he will be able to obtain a visa for its implementation, and upon arrival to Poland he will be issued with a residence card with the „CIT” annotation. The amendment also introduces a number of changes to the provisions of the Act on foreigners, which are intended to streamline proceedings, change the requirements for granting individual residence permits, or clarify provisions that may have raised doubts in practice, e.g. the requirement to have a stable and regular income sufficient to cover the costs of living for yourself and the family members while applying for a temporary residence permit for a graduate of the Polish university looking for a job. In addition, the new provision will be a special basis for granting a temporary residence permit

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<sup>15</sup> Obwieszczenie Marszałka Sejmu Rzeczypospolitej Polskiej z dnia 30 października 2017 r. w sprawie ogłoszenia jednolitego tekstu ustawy o cudzoziemcach (Dz.U. 2017 item 2206).

<sup>16</sup> Ustawa z dnia 24 listopada 2017 r. o zmianie ustawy o cudzoziemcach oraz niektórych innych ustaw (Dz. U. from 2018 r., item 107).

<sup>17</sup> ICT – „Intra-corporate transfer”, In Rother words, the transfer of employees within enterprises. ICT is defined Directive 2014/66 / EU of the European Parliament and of the Council of 15 May 2014 on the conditions of entry and residence of third-country nationals as part of an intra-corporate transfer (Dz. U. L 157 from 27.05.2014).

and work for a foreigner whose purpose of stay will be to work in the profession desired for the Polish economy. These professions will be able to be specified in the ordinance of the minister competent for labour issues in agreement with the minister competent for economy. In the case of this permit, the requirement to prove that the entity entrusting the work is not able to meet the staffing needs on the local labour market will not be required. In a similar way to a temporary residence permit, in order to work in a highly demanding profession, a foreigner who holds this special permit for temporary resident and work will be protected against its withdrawal in case of unemployment. A special basis for granting a permanent residence permit for foreigners who hold these permits will also be created, after 4 years of continuous residence on the territory of Poland. The provisions will come into force on January 1, 2019 and will be used when determining the professions desired for the Polish economy in the form of a regulation to the Act<sup>18</sup>.

#### **4. Implementation of the Act in the area of permanent and temporary residence**

The Act of 2013 clearly regulates the conditions of permanent or temporary residence on the territory of Poland. Each foreigner must apply for the appropriate permit, while meeting the relevant conditions. First and foremost, it is important that such a person be insured, have adequate financial resources and a place to live. A foreigner with a temporary residence permit is able to move around the entire territory of the country, the Schengen area – European Union countries without the need for a visa. Facilitations for foreigners introduced by the Polish government resulted in increased interest in various forms of legalizing their stay. According to Eurostat data, in 2013 Poland released the largest number of residence permits in the EU and long-term visas shortly after the UK. Within one year of the entry into force of the Act, a 76% increase in the number of applications for the right to stay could be observed. The number of applications shows that foreigners are eager to take advantage of the opportunities open to them by the new law. The greatest attention is focused on temporary stay, as there were 140% more submitted applications. By far the largest number of immigrants have applied for this type of permit, which is mainly due to taking up employment or studying. 11,000 foreigners, as a result of simplifying the regulations, decided to obtain a permit to settle permanently

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<sup>18</sup> < <https://udsc.gov.pl/nowelizacja-ustawy-o-cudzoziemcach/>, [Access: 01 March 2018].

in Poland. The long-term EU resident's stay was not much popular due to the liberalization of the regulations. The number of applications increased from 2.12 to 2.7 thousand. The Holders of the Polish Card were the largest group among all applicants for permanent residence (38%, that is 4179 people)<sup>19</sup>.

The largest number of foreigners arriving in our country is targeting the Masovia, Lower Silesia and Lesser Poland. This is due to the existence of large agglomerations in these areas, which is associated with a wider offer on the labour and science market. Cities also guarantee greater anonymity, better developed infrastructure and greater chances of finding a flat. In addition, this choice depends on the level of education, where highly qualified people can use the acquired skills. Immigrants temporarily staying in the territory of the country usually stop in regions inhabited by representatives of their nationalities. They are the so-called support group, helping to get by in a foreign country. The most numerous group of applications are invariably Ukrainian citizens, accounting for 52% of all applicants for legalization of stay in Poland. Then, the most immigrants come to us from Vietnam, China, Belarus and Russia. Common border and small cultural differences make Ukrainians easily and willingly integrate in our country. They mostly reside in the border poviats, Przemyśl and its poviats, and Włodawa, as well as the resettlement areas (Brzeg county in the Opole voivodeship, Wrocław and Trzebnica, areas of the Warmia and Masuria, Lubusz and West Pomeranian voivodeships) and big cities, like Warsaw, Łódź, Szczecin, Kraków<sup>20</sup>. Vietnamese and Chinese, on the other hand, choose large cities, more often they create their own groups, integrating with the local community in a limited way.

The year 2016 was also characterized by a great interest of Poland among immigrants. It ranked second in the European Union in terms of the number of such documents issued. Data published by Eurostat concern foreigners from countries outside the European Union and include residence permits (including long-term visas – over 3 months) issued for the first time. In 2016, 586 thousand people received them, that is about 17.5% of all issued in Europe. Ukraine is the main country of origin of people who have obtained them. 18% of all permits were issued for that country, the vast majority of which was issued in Poland. The second and third place in terms of the number of permits obtained included the Belarusians (28 thousand) and the Moldovans (8 thou-

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<sup>19</sup> *Podsumowanie roku obowiązywania ustawy o cudzoziemcach*, Urząd do spraw Cudzoziemców, Warszawa 2015, p. 4.

<sup>20</sup> A. Górný, L. Grabowska-Lusińska, M. Lesińska, M. Okoński, *Poland: becoming a country of sustained immigration*, „IDEA Working Papers”, 2009 No. 10, p. 140-142.

sand)<sup>21</sup>. Other people from China, India and Vietnam were mainly seeking a temporary residence permit. The vast majority of cases – about 90%, concerns the issue of a permit for this type of stay, which entitles you to stay in Poland for a period of three years<sup>22</sup>. Permanent residence permit enjoyed only 8% attention and almost all proceedings ended with acceptance<sup>23</sup>.

In three quarters, foreigners also filed about 10.5 thousand applications for international protection. In general, Russians, of Chechen nationality – 73% and citizens of Ukraine, Tajikistan, Syria and Iraq – try to get refugee status. This is caused primarily by the fear of their own lives and the lives of their relatives due to military operations. People are persecuted because of their nationality, race, political views or religion. In these countries, the community has no real prospects for living and improving its situation. Comparing this year with the same period of 2015, a 24% increase in the number of people applying for protection is noticeable. The head of the Office for Foreigners has issued over 10,000 decisions in the field of international protection: 217 people received refugee status, and 8400 of proceedings were discontinued. This is due to the lack of the foreigner's interest in continuing the procedure, who most often goes to the countries of the Western Europe<sup>24</sup>.

According to data from February 2018, in the previous year, 202 thousand foreigners applied for a residence permit in Poland. Applications for the legalization of stay thus submitted by 33% more than in 2016 and 71% than in 2015. Most applications were registered from third-country citizens – 192 thousand. Temporary migrations invariably prevail – 88% of applications, 10% related to permanent residence permits and 2% for long-term EU resident's stay. Mostly people aged 20-39 decide to migrate. People in this age range find it easier to leave their own place of residence, are more mobile, willing to develop and take risks. This group also includes people undertaking better paid work in a foreign country, due to the desire to improve the living conditions of the family remaining in the country. The tendency of the inflow of immigrants to our country also remains unchanged. However, in 2017, there was a noticeable increase in interest in legalizing stays, especially among citizens of Belarus and India, who submitted 98% and 95% more applications than in 2016, respectively. In the case of citizens of the EU member states, 10,000 foreigners registered in Poland. Most often these were Germans (2.3 thousand), Italians (1.1 thousand),

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<sup>21</sup> <<https://udsc.gov.pl/zezwolenia-pobytowe-dla-cudzoziemcow-raport-eurostatu/>> [Access: 29 November 2017].

<sup>22</sup> Legalizacja pobytu w 2016 roku, „Urząd do Spraw Cudzoziemców. Biuletyn – I kwartał 2017”, 2017 No. 1, p. 10.

<sup>23</sup> <<https://udsc.gov.pl/podsumowanie-legalizacja-pobytu-w-2016-r/>>, [Access: 20 March 2017].

<sup>24</sup> <<https://udsc.gov.pl/trendy-migracyjne-po-iii-kwartale-roku/>>, [Access: 20 March 2017].

Bulgarians (0.8 thousand) and Romanian citizens (0.7 thousand), as well as Great Britain (0.7 thousand). Decisions on the legalization of stay of foreigners are issued by voivodeship offices. Most applications were received by: Masovia Provincial Office – 62.6 thousand, Lower Silesian Provincial Office – 20 thousand, Lesser Poland Provincial Office – 18.3 thousand and Greater Poland Provincial Office – 17.5 thousand. 85% of applications for residence permits were granted, 10% were refused, and 5% of cases were discontinued. Foreigners who want to settle and legalize their stay in Poland (for a longer period than the visa allows), provincial offices issue documents confirming their right to stay in the country. Most often it is a residence card or documents issued to citizens of the European Union and their families. Important documents entitling to stay in Poland are currently owned by approx. 325 thousand foreigners<sup>25</sup>.

This year, four years will have passed since the new law entered into force. This act gave a chance to many citizens from beyond the eastern borders to start a better life and fulfil themselves in a scientific and professional way. Temporary or permanent residence permits were obtained 61% more than in the years prior to the Act. The list of the largest citizenships with valid documents does not change significantly, the Ukrainian nationals always rank first<sup>26</sup>. In 2017, there were 165,000 applications for a temporary residence permit, 71,000 European Union citizens registered their stay, 59,600 for permanent residence and 11,900 for the long-term EU resident's stay. The largest group are men of the working age<sup>27</sup>. It should also be noted that since June 2017, under EU legislation, the Ukrainian citizens have been exempted from the obligation to have a visa when crossing external borders, when their stay does not exceed 90 days in each 180-day period.

## 5. Work and scientific migration

By way of the new law, Poland has clearly indicated that immigration policy will be subordinated to the primacy of the labour market. A significant context of the political discussion related to labour migration is the distinction between two types of demand for foreigners' work. Namely, the succession demand for filling in existing vacant and newly created jobs and invasive demands con-

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<sup>25</sup> <<https://udsc.gov.pl/zezwolenia-na-pobyt-w-2017-r-podsumowanie/>>, [Access: 01 March 2018].

<sup>26</sup> <<https://udsc.gov.pl/ponad-234-tys-cudzoziemcow-z-prawem-pobytu-w-polsce/>>, [Access: 20 March 2017].

<sup>27</sup> <<https://migracje.gov.pl/statystyki/zakres/polska/typ/dokumenty/widok/mapa/rok/2017/?x=0.2598&y=0.9967&level=1>>, [Access: 29 November 2017].

sisting in pushing the domestic workforce through cheaper foreign power<sup>28</sup>. Officially, the most important factors in employing migrants are shortages in the labour market and specific qualifications. However, one should consider the fact that invasive demand may be hidden by the surveyed employers, who conceal the motive of lower financial requirements<sup>29</sup>. In the field of employment of foreigners, there is also a supply factor, i.e. a change in the demand for labour due to the increase in the number of migrants. This involves creating new needs, such as home services and work provided within the ethnic community: financial, catering and commercial<sup>30</sup>.

The Office for Foreigners explicitly states that economic immigration focuses mainly on the Ukrainian citizens<sup>31</sup>. Rafał Rogala concluded that Poland has become a leader in the number of work permits issued. In 2016, a total of 375,000 of them were issued, that is 53% of all permits issued in the European Union permitting work. Over 500,000 permits were granted to Ukrainians throughout Europe, of which 86% were issued in Poland. More and more declare the will to stay permanently, which is complementary to the needs of the labour market<sup>32</sup>. In addition, they benefit from easier access to the labour market and can work for 6 months within the next 12 months without having to obtain a permit. The condition is only to have a written statement of the entity entrusting the performance of work registered in the relevant powiat labour office and a written contract. In 2015 763,000 declarations on entrusting work to the Ukrainian citizens were issued, and in 2016 they amounted to 1.26 million. It should be remembered that the number of foreigners who have actually taken up a job in connection with a registered declaration does not have to be the same as the number of the registered declarations. In addition, according to the Social Insurance Institution data, about 270,000 Ukrainians are reported for pension insurance<sup>33</sup>. Due to the lack of prospects for a rapid improvement of the economic situation in Ukraine, a further inflow of citizens of this country is expected for the next few years.

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<sup>28</sup> I. Grabowska-Lusińska, *Koncepcja i metodyka badania popytu na pracę, w:Czy Polska gospodarka potrzebuje cudzoziemców?*, (eds.) I. Grabowska-Lusińska, A. Żylicz, Warszawa 2008, p. 9. Source of typology is thesis of J. Meller i E Dolny, *Popyt na pracę w Polsce: teoria i praktyka*, Toruń 1997.

<sup>29</sup> A. Górný, L. Grabowska-Lusińska, M. Lesińska, M. Okolski, *Poland: becoming a country of sustained immigration*, „IDEA Working Papers”, 2009 no. 10, p. 56.

<sup>30</sup> R. Stefańska, A. Piekuć, *Podaż pracowników cudzoziemskich w Polsce*, in *Czy Polska gospodarka potrzebuje cudzoziemców?*, (eds.) I. Grabowska-Lusińska, A. Żylicz, Warszawa 2008, p. 42-43.

<sup>31</sup> <<https://www.youtube.com/watch?v=KwhhoUUOafM>>, [Access: 20 March 2017].

<sup>32</sup> <<http://udsc.gov.pl/zezwolenia-pobytowe-dla-cudzoziemcow-w-ue/>>, [Access: 20 March 2017].

<sup>33</sup> *Imigracja z Ukrainy. 128 tys. obywateli Ukrainy z długoterminowymi pozwoleniami na pobyt w Polsce*, „Urząd do Spraw Cudzoziemców. Biuletyn – II kwartał 2017”, 2017 No. 2, p. 4.

Almost 60% of all residence permits are issued in connection with the willingness to work. In addition to citizens from Ukraine, the Chinese, Vietnamese and Belarusians also stand out. Foreigners are the most interested in the capital. In 2016, the Masovian Provincial Office received 1/3 of all applications for residence permits. Apart from this area, many foreigners choose Lower Silesia (15,500), Lesser Poland (14,600) and Greater Poland (12,000)<sup>34</sup>. Foreigners usually undertake seasonal work in agriculture and construction. Other categories of employees who are granted work permits include skilled workers and employees at simple jobs (home help, drivers)<sup>35</sup>. Analyses indicate that there are differences in the national structure in different professional categories. Due to their size, Ukrainians dominate in almost all branches. There is a large group of Chinese citizens in the management team and Thai citizens in medical professions. Others, such as Moldovans, Georgians and Byelorussians, undertake simple and seasonal work<sup>36</sup>. In addition to the legal labour market, in Poland, a significant part of foreigners undertake illegal work. The dominant industries are house-work, construction works, agriculture, open-air trade and small catering. The scale of illegal employment is proportional to the data on legal work, but this number does not have to be adequate to the facts. The largest number of reported cases of unpermitted employment applies to the Ukrainian citizens, followed by citizens of Belarus, Uzbekistan, Moldavia, Vietnam and Russia<sup>37</sup>.

Scientific migration is not only about education, but above all about acquiring highly qualified workers, especially from less affluent and less developed countries. The group of foreign students does not require financial expenditures for integration as it is done spontaneously during the course of learning<sup>38</sup>. The social capital built during studies is much stronger than those available to other immigrant groups<sup>39</sup>. Polish universities are trying to join the global competition for foreign students, because so far they have not enjoyed much interest. According to research carried out by the Educational Perspective Foundation, in 2012/2013 less than 30,000 citizens of other countries studied in our country, which put Poland in the last place in the EU. The new law with a number of solutions fits in with the idea of promoting Polish science.

<sup>34</sup> <<https://udsc.gov.pl/podsumowanie-legalizacja-pobytu-w-2016-r/>>, [Access: 20 March 2017].

<sup>35</sup> <<https://www.youtube.com/watch?v=KwhhouUOafM>>, [Access: 20 March 2017].

<sup>36</sup> J. Konieczna-Sałamatin, *Imigracja do Polski w świetle danych urzędowych*, Warszawa 2013, p. 11.

<sup>37</sup> <[http://www.prawawpracy.pl/html/kontrole\\_legalnosc\\_cudzoziemcy.html](http://www.prawawpracy.pl/html/kontrole_legalnosc_cudzoziemcy.html)>, 01 March 2018.

<sup>38</sup> K. Iglicka, *Kierunki rozwoju polskiej polityki migracyjnej w ramach obszaru legalnej migracji pracowniczej na lata 2007-2012*, Warszawa 2007, p. 9.

<sup>39</sup> M. Bieniecki, M. Pawlak, *Strategie ukraińskich migrantów zarobkowych wobec polskiej rzeczywistości instytucjonalnej*, Warszawa 2010, p. 43-44.

The demographic low and emigration have caused the need to search for students outside the state. This is also the goal of the Human Capital Development Strategy 2020 implemented in 2013, which assumes the achievement of 5% of foreigners – students. Poland is orientating its promotional activities mainly to Eastern Europe and Asia for obvious reasons. Students from these areas can look for opportunities to acquire better professional qualifications and work, as well as easier access to Western countries. Obtaining a temporary residence permit enables travelling around the Schengen countries and obtaining a long-term residence permit for the European Union<sup>40</sup>.

On the basis of old regulations, foreigners faced many administrative barriers to the legalization of their stay, which discouraged them and reduced their attachment to Poland. The problems were mainly due to the dates that the students had to keep. He was granted a residence permit for a year, and he had to apply for an extension 45 days before its end, attaching a certificate of passing the year of study. If he did not keep the deadline, he remained illegally in Poland (with the risk of expulsion) or was waiting for a decision in his country. These problems are solved by the new regulations with an extended period of residence permit, a convenient date for extending the stay and a shortening of the time in which the visas are issued. In addition, the holders of the Polish Card have the same rights as native citizens. In terms of taking up work, the Act also provided for a liberal approach, which encourages decisions to settle permanently and improve qualifications<sup>41</sup>. Due to the liberalization of regulations, the number of applications for temporary stay in relation to education increased by 42% in 2015<sup>42</sup>. Polish universities enjoy the biggest interest by the citizens of Ukraine and the People's Republic of China<sup>43</sup>. Data from the Ministry of National Education show that in total in all types of educational institutions, nearly 7,000 Ukrainian children are taught. Most in primary schools (almost 2,000) and post-secondary schools (1,300). According to the data of the Central Statistical Office, 57,000 foreigners studies at Polish universities in the academic year 2015/2016<sup>44</sup>.

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<sup>40</sup> M. Gońda, *Nowa ustanow o cudzoziemcach szansą na większą liczbę studentów z zagranicy?*, „Biuletyn Migracyjny”, 2013 no. 45, p. 2.

<sup>41</sup> Ibid., p. 3.

<sup>42</sup> *Podsumowanie roku obowiązywania ustawy o cudzoziemcach*, Urząd do spraw Cudzoziemców, Warszawa 2015, p. 5.

<sup>43</sup> <<https://udsc.gov.pl/zezwolenia-pobytowe-dla-cudzoziemcow-w-ue/>>, [Access: 01 March 2018].

<sup>44</sup> *Imigracja z Ukrainy. 128 tys. obywateli Ukrainy z długoterminowymi pozwoleniami na pobyt w Polsce*, „Urząd do spraw Cudzoziemców. Biuletyn – II kwartał 2017”, 2017 No. 2, p. 4.

In 2017, over 65,000 foreign students from 166 countries studied in Poland. Foreign students accounted for 4.88% of all students in the country, 8 years earlier it was only 0.61%. The influence on the growing number of migrants at Polish universities comes from, among others, activities at the central level, marketing activities of universities and the activity of the „Study in Poland” program. Students from Ukraine and Belarus are the dominant group at Polish universities. This is mainly due to the close neighbourhood, similar culture and Poland’s membership in the European Union. The third largest group in recent times are the citizens of India, which is experiencing a fast upward trend. Indians are interested in foreign universities due to the rapidly growing population in India and too few places at Indian universities. They choose our country because of the high level of education and a wide range of courses and programs. Norwegians and Swedes most often choose Polish medical schools. The wide range of teaching attracts students from many other countries around the world, such as Saudi Arabia, Taiwan, Turkey, the Czech Republic, Russia, China, the United States, former Eastern Bloc countries and Africa. Kazakhstan is the promising future market for Polish universities. In 2017, there were almost 700 students from this country. Kazakhstan is developing at a rapid pace, which in turn is associated with the need to acquire educated employees. The Kazakh authorities are looking for new opportunities to study abroad, they use the student exchanges and offer scholarships for the best students to study abroad<sup>45</sup>.

Despite the spectacular growth, in Poland, the percentage of foreign students compared to its neighbours (the Czech Republic, Hungary, Slovakia, Lithuania) and the most developed western countries is still lower. Poland, next to Spain and Slovenia, is the least internationalized EU country and one of the least internationalized countries in the OECD.

## 6. Conclusion

Poland has come a long way in creating a migration policy. Foreigners have been a small group for years, which is why the issue was often overlooked in discussions. Immigration policy is affected by the membership in the European Union, Polish legislation must be constantly adapted to the EU standards. At present, the country and Europe are facing the problem of the intensification of the phenomenon of migration. In addition, the situation is determined by

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<sup>45</sup> Report „Studenci zagraniczni w Polsce 2017”, „Study in Poland”, 2017 No. 15 (145).

the demographic crisis and the emigration of young people in search of better living conditions.

A small number of foreigners settles in Poland, emigrants constitute a fraction of a percent of permanent residents of the country. The vast majority of settlements are located in the Masovia voivodeship, mainly targeting the capital. The immigrants are dominated by the citizens of neighbouring countries, with particular emphasis on the Ukrainian citizens. They have been the largest group for many years both among persons obtaining the right to stay, as well as among those who work and study. Several factors affect the Ukrainians' interest in Poland, among others, the Ukraine's economy combined with a large population, short distance and belonging to a similar cultural circle. The attitude of the Poles who are tolerant towards foreigners is also significant. Along with economic development and changes in the law, Poland becomes a country considered as a potential place of work, study and residence not only by its neighbours. The immigrants arriving to our country include also Vietnamese, Chinese and Indians.

The new migration policy is aimed mainly at the Eastern neighbours as a recipe for the country's demographic problems. The basis is to enter it in the strategy of economic development of the state, so the Council of Ministers this year adapted a new document entitled „Socio-economic priorities of the migration policy”. The Polish government, fearing the shortage of highly qualified and basic employees, plans to consistently pursue a new migration policy. It is to be primarily tailored to the needs of the labour market, respond to the needs of foreigners, repatriates and Polish emigrants, as well as prevent further emigration from the country and ensure an increase in return migrations<sup>46</sup>. Poland, wanting to attract as many migrants as possible, must act effectively and consistently. Support for entrepreneurs and universities will result in a further increase in the number of immigrants in the country. Appropriate tools are needed to monitor migration and market needs, as well as facilitate the integration of foreigners.

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<sup>46</sup> <<https://www.miir.gov.pl/strony/aktualnosci/nowe-priorytety-rzadowej-polityki-migracyjnej/>>, [Access: 13 June 2018].

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