

ACT
of 14 July 2006

**on the entry into, residence in and exit from the Republic of Poland of nationals of the
European Union Member States and their family members** ^{1), 2)}

(Journal of Laws No. 144, item 1043)

Chapter 1
General

Article 1

The Act lays down the rules and conditions governing the entry, residence and exit of the territory of the Republic of Poland of following persons:

- (1) nationals of the European Union Member States,
- (2) nationals of the non-EU European Economic Area states,
- (3) nationals of States, which are not parties to the agreement on European Economic Area, who may exercise their right to move and reside freely within the territory on the grounds of the agreements concluded by these States with the European Community and its Member States,
- (4) family members of the nationals referred to in (1)-(3) above, who join or associate them,

as well as the procedure and bodies competent for these matters.

¹ The present Act, within its regulations, implements the provisions of Directive 2004/38/EC OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States amending Regulation (EEC) No 1612/68 and repealing Directives 64/221/EEC, 68/360/EEC, 72/194/EEC, 73/148/EEC, 75/34/EEC, 75/35/EEC, 90/364/EEC, 90/365/EEC and 93/96/EEC (OJ L 158 of 30.04.2004, p. 77; OJ Polish special edition chapter 5 vol. 5 p. 46).

² The present Act amends the following Acts: Act of 15 February 1962 on Polish citizenship, Act of 10 April 1974 on registration of population and identity cards, Act of 6 April 1990 on the Police, Act of 7 September 1991 on education system, Act of 19 November 1999 – business activity law, Act of 9 September 2000 on the stamp duty, Act of 13 June 2003 on foreign nationals, Act of 13 June 2003 on granting protection to foreign nationals on the territory of the Republic of Poland, Act of 27 June 2003 on social benefit, Act of 12 March 2004 on social assistance, Act of 20 April 2004 on employment promotion and labour market institutions, Act of 2 July 2004 on the freedom of economic activity, Act of 27 July 2005 – Law on higher education, Act of 29 July 2005 on the amendment of certain acts due to the changes in the division of duties and powers of local administration

Article 2

Whenever in this Act the reference is made to:

- (1) border – it shall signify the state border of the Republic of Poland within the meaning of the Act of 12 October 1990 on the protection of the state border (Dz.U. of 2005 No 226 item 1944);
- (2) travel document – it shall signify a travel document within the meaning of the Act of 13 June 2003 on foreign nationals (Dz. U. of 2003, No 128, item 1175 as amended³)
- (3) Union citizen – it shall mean a foreign national:
 - (a) national of the European Union Member States,
 - (b) national of the non-EU European Economic Area states,
 - (c) national of States, which are not parties to the agreement on European Economic Area, who may exercise their right to move and reside freely within the territory on the grounds of the agreements concluded by these States with the European Community and its Member States;
- (4) the family member – it shall signify:
 - (a) the spouse,
 - (b) the descendants of the Union citizen who are under the age of 21 or are dependants and those of the spouse or living in the common household with the Union citizen,
 - (c) dependent direct relatives of the Union citizen in the ascending line and those of the spouse or living in the common household with the Union citizen;
- (5) self-employed person – it shall signify a natural person who is an entrepreneur within the meaning of the Act of 2 July 2004 on the freedom of economic activity (Dz.U. No 173 item 1807 as amended⁴) and any other natural person undertaking gainful employment in their own name and on their own behalf, even if other acts do not deem such activity an economic activity or a person undertaking such activity for entrepreneurs;
- (6) Member State – it shall signify a Member State of the European Union, State of the European Economic Area, which is not a member of the EU or State, which is not a

³ Amendments to this Act were published in Dz.U. of 2004 No 96 item 959 and No. 179 item 1842, and of 2005, No. 90 item 757, No. 94 item 788, No 132 item 1105 and No. 163 item 1362.

⁴ Amendments to this Act were published in Dz.U. of 2004 No. 281 item 2777, of 2005 no. 33 item 289, no 94 item 788, no 143 item 1199, no 175 item 1460, no 177 item 1468, no 178 item 1480, no 179 item 1485, no 180 item 1494, no. 183 item 1538, as well as of 2006 no. 17 item 127.

party to the agreement on European Economic Area, whose nationals may exercise their right to move and reside freely within the territory of the Republic of Poland on the grounds of the agreements concluded by these States with the European Community and its Member States;

(7) employee - it shall signify a person remaining in employment relation, as well as a person employed on the grounds of a civil law contract;

(8) visa - it shall signify a visa within the meaning of the Act of 13 June 2003 on foreign nationals.

Article 3

1. The proceedings in cases governed by the present act shall be subject to the provisions of the Act of 14 June 1960 - Code of Administrative Procedure (Dz.U. of 2000 No 98, item 1071 as amended⁵), unless otherwise specified in the Act.
2. The proceedings in cases governed by the present act and lying within the competence of consuls shall be subject to the provisions of the Act of 13 February 1984 on functions of the consuls of the Republic of Poland (Dz.U. of 2002 No 215, item 1823 and of 2004 no. 173 item 1808), unless otherwise specified in the Act.
3. Cases lying within the competence of Voivods, and governed by the present Act, the provisions of Article 33 of the Act of 5 June 1998 on government administration in Voivodships (Dz.U. of 2001 No 80 item 872 as amended⁶).

Article 4

The President of the Office of Repatriation and Foreign Nationals is a higher level authority within the meaning of the Act of 14 June 1960 - Code of Administrative Procedure against the Voivod within the framework of matters specified in the Act.

Article 5

The authority competent for matters governed by the Act may decide not to justify its decision or resolution issued in those cases, in whole or in part, if the State security so requires.

⁵ Amendments to the consolidated text of the Act were published in: Dz.U. of 2001 No. 49 item 509, of 2002 no 113 item 984, no 153 item 1271 and no 169 item 1387, of 2003 no 130 item 1188 and no 170 item 1660, of 2004 no 162 item 1692 and of 2005 no 64 item 565, no 78 item 682 and no 181 item 1524.

⁶ Amendments to the consolidated text of the Act were published in: Dz.U. of 2001 no 128 item 1407, of 2002 no 37 item 329, no 41 item 365, no 62 item 558, no. 89 item 804 and no 200 item 1688, of 2003 no 52 item 450, no 137 item 1302, no 149 item 1452, of 2004 no 33 item 287 and of 2005 no 33 item 288, no 90 item 757 and no 175 item 1462.

Article 6

Authorities competent for matters governed by the present act are obliged to instruct Union citizens and their family members in the language they understand, of the following:

- (1) rules and procedures in such cases;
- (2) their rights and duties;
- (3) contents of decisions on the grounds of which they are refused the registration of residence or grounds for the annulment of such registration;
- (4) contents of decisions resulting in the refusal to issue documents referred to in the Act or on the grounds of which such documents are annulled;
- (5) contents of the decision on expulsion;
- (6) procedure and deadline for appeals.

Article 7

1. Applications in cases governed by the Act shall be drawn up in Polish and submitted using respective forms.
2. Documents drawn up in a foreign language and appended to applications in cases governed by the Act shall be submitted together with their certified translations into the Polish language.

Article 8

In proceedings and registers maintained on the grounds of the Act, the following data may be processed:

- (1) First name(s) and family name;
- (2) Previous name;
- (3) Gender;
- (4) Father's name;
- (5) Mother's name;
- (6) Date of birth;
- (7) place and country of birth;
- (8) physical description:
 - (a) height in centimetres,
 - (b) colour of eyes,
 - (c) distinguishing marks;

- (9) fingerprints;
- (10) citizenship;
- (11) marital status;
- (12) place of residence;
- (13) personal number of Public Electronic System of Population Evidence (PESEL Number);
- (14) image.

Chapter 2

Entry into the territory of the Republic of Poland and exit from that territory

Article 9

1. Union citizen may enter the territory of the Republic of Poland on the grounds of a valid travel document or other valid documents confirming their identity and citizenship.
2. Family member who is not a Union citizen may enter the territory of the Republic of Poland on the grounds of a valid travel document and visa.
3. The obligation to have a visa, referred to in (2) above does not apply to a national of the state, against whom the visa obligation was lifted partially or in whole, pursuant to Council Regulation (EC) No. 539/2001 of 15 March 2001 listing the third countries whose nationals must be in possession of visas when crossing the external borders and those whose nationals are exempt from that requirement (OJ EC L 81 of 21.03.2001, p.1) amended by Council Regulation (EC) No. 2414/2001 of 7 December 2001 amending Regulation (EC) No 539/2001 (OJ EC L 327 of 12.12.2001, p.1) and Council Regulation (EC) No 453/2003 of 6 March 2003 amending Regulation (EC) No 539/2001 (OJ L 69 of 13.03.2003, p.10).

Article 10

1. Family member who is not a Union citizen shall be issued an entry visa for stay or to join a national of the Member State.
2. Family member who is not a Union citizen shall be refused a visa if his personal data is listed in the register of foreign nationals, whose stay in the territory of the Republic of Poland is not welcome, maintained on the grounds of Article 124 (4) of the Act of 13 June 2003 on foreign nationals, hereinafter referred to as “the list”.

3. Visa shall be issued or refused by the consul or a commander of Border Guards immediately after the receipt of the application.

Article 11

1. Union citizens or their family members who is not a Union citizen may be refused entry into the territory of the Republic of Poland in the case, where:
 - (1) his personal data has been entered onto the list, or
 - (2) he/she does not have a document referred to respectively in Article 9 (1) or Article 9 (2), unless he/she proves unquestionably that he/she is authorised to exercise the right to free movement.
2. The provisions of paragraph 1 (1) shall not apply for the entry in the territory of the Republic of Poland to take part in proceedings before administrative court in the case regarding the expulsion from that territory and when the residence of the Union citizen or his/her family member who is not a Union citizen in that territory causes no significant threat to public order or public security.

Article 12

The Commander of a Border Guard Unit shall enable a Union citizen or a family member who is not a Union citizen to take steps aimed at obtaining documents referred to in Article 9 (1) or Article 9 (2) respectively in a period not longer than 72 hours before issuing a decision to refuse entry into the territory of the Republic of Poland or to prove unquestionably that these persons are authorised to exercise their right to free movement.

Article 13

1. Decisions to refuse entry into the territory of the Republic of Poland shall be issued by the Commander of the Border Guard Unit.
2. The decision of the Commander of the Border Guard Unit may be appealed against.

Article 14

1. Union citizen may enter into the territory of the Republic of Poland on the grounds of a valid travel document or another document confirming his identity and citizenship.
2. Family member who is not a Union citizen may enter the territory of the Republic of Poland on the grounds of a valid travel document.

Chapter 3
Right of Residence

Article 15

1. Union citizen and family member who is not a Union citizen may reside in the territory of the Republic of Poland for a period of 3 months without the need to meet the residence requirements set forth in this chapter.
2. in the period referred to in paragraph 1 above, the following shall apply:
 - (1) Union citizen shall be obliged to be in the possession of a valid travel document or another document confirming his/her identity and citizenship.
 - (2) Family member who is not a Union citizen shall be obliged to be in the possession of a valid travel document.

Article 16

1. Union citizen shall have the right to reside for a period longer than 3 months if he/she meets one of the following conditions:
 - (1) he/she is an employee or a self-employed person in the territory of the Republic of Poland;
 - (2) he/she is covered by the general health insurance or is a person entitled to health insurance or is a person entitled to health insurance benefits on the grounds of the provisions on coordination within the meaning of Article 5 (23) of the Act of 27 August 2004 on health insurance benefits finances from public funds (Dz.U. No. 210 item 2135, as amended⁷) and is in possession of enough funds to provide for himself/herself and his/her family members in the territory of the Republic of Poland without the need to make use of social insurance benefits;
 - (3) he/she studies or undergoes vocational training in the Republic of Poland and is covered by general health insurance or is a person entitled to health insurance or is a person entitled to health insurance benefits on the grounds of the provisions on coordination within the meaning of Article 5 (23) of the Act of 27 August 2004 on health insurance benefits finances from public funds and is in possession of enough

⁷ Amendments to the Act were published in: Dz.U. of 2005 No 94 item 788, No. 132 item 1100, no 138 item 1154, no 157 item 1314, no 164 item 1366, no 169 item 1411 and no 179 item 1485 as well as of 2006 No 75 item 519.

funds to provide for himself/herself and his/her family members in the territory of the Republic of Poland without the need to make use of social insurance benefits;

(4) he/she is married to a Polish national.

2. If the purpose of residence in the Republic of Poland is to undertake gainful employment, a Union citizen against whom the limitations in the access to labour market apply pursuant to international agreements shall be granted the right to reside for a period longer than three months after obtaining a promise of employment permit in that territory.

Article 17

1. Union citizen who is no longer employed or does not undertake self-employment any more shall keep the rights of employees and self-employed persons in following cases
 - (1) where he/she does not undertake employment or any other gainful activity in his/her own name and on his/her own behalf because he/she is temporarily unable to work as the result of an illness or accident;
 - (2) where he/she is in duly recorded involuntary unemployment in accordance with the unemployment register kept by the Poviats Employment Office;
 - (3) where he/she embarks on education or vocational training.
2. If the period of employment or other gainful activity in their own name and on their own behalf in the territory of the Republic of Poland preceding unemployment referred to in paragraph 1 (2) above amounted to less than one year, the Union citizens shall retain the right to reside granted to an employee or self-employed person for a period of 6 months of the registration in Poviats Employment Office.

Article 18

The right of residence of the Union citizen, as referred to in:

- (1) Article 16 (1) and (2) and in Article 17 shall cover also a family member accompanying him/her in the territory of the Republic of Poland;
- (2) Article 16 (3) shall also cover the spouse and dependent children accompanying him/her in the territory of the Republic of Poland.

Article 19

1. In the event of divorce, annulment of marriage, death or exit from the territory of the Republic of Poland of the Union citizen referred to in Articles 16 and 17, the family member who is a Union citizen shall retain the rights of residence.

2. Family member, who is not a Union citizen shall retain the right of residence in following cases:
 - (1) death of the Union citizen referred to in Articles 16 and 17 if he/she accompanied the Union citizen in the territory of the Republic of Poland for a period longer than one year preceding the date of death of the Union citizen.
 - (2) divorce, annulment of marriage with the Union citizen referred to in Articles 16 and 17, if:
 - (a) the marriage lasted for at least 3 years before prior to initiation of the divorce or annulment proceedings, including one year of residence of Union citizen in the territory of the Republic of Poland, or
 - (b) by agreement between the spouses or by court order, as former spouse of the Union citizen he/she has custody of the Union citizen's children, or
 - (c) this is warranted by particularly difficult circumstances, such as having been a victim of domestic violence while the marriage or registered partnership was subsisting, or
 - (d) by agreement between the spouses or by court order, the former spouse has the right of access to a minor child, provided that the court has ruled that such access must be in the Republic of Poland, and for as long as is required.
3. The Union citizen's referred to in Articles 16 and 17 departure from the Republic of Poland or his/her death shall not entail loss of the right of residence of his/her children or of the parent who has actual custody of the children, irrespective of nationality, if the children reside in the Republic of Poland and are enrolled at an educational establishment, for the purpose of studying there, until the completion of their studies.

Article 20

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

Article 21

1. The residence shall be registered at the request of the Union citizen and the residence card of a member of the Union citizen's family shall be issued at the request of the family member who is not a Union citizen.

2. The request shall be submitted in person, not later than on the following day after the expiry of 3 months from the date of entry to the territory of the Republic of Poland. The requirement to submit the request in person shall not refer to minors.
3. The request shall be accompanied by documents or written statements confirming the fulfilment of residence requirements laid down in this chapter, and in the case of the request to issue a residence card of a member of the Union citizen's family it shall be accompanied also by photographs.
4. A valid travel document shall be presented upon submission of the request to register the residence or to issue a residence card of a member of the Union citizen's family. A Union citizen may present other valid document which confirms his/her identity and citizenship.
5. The certificate confirming the submission of the request shall be issued immediately to the family member who is not a Union citizen.

Article 22

The residence shall be registered and the certificate on the registration of the residence of a Union citizen shall be issued immediately, and the residence card of a member of a Union citizen's family shall be issued not later than within 6 months from the date of the submission of the request for its issue, or the registration of the residence or the issue of the card shall be denied within that time.

Article 23

1. The authority which conducts proceedings concerning the registration of the residence or the issue of the residence card of a member of a Union citizen's family shall submit the copies of the requests referred to in Article 21 (1) to the Border Guard unit Commander, the Voivodship Police Commander and the head of the Internal Security Agency.
2. The Border Guard unit Commander, the Voivodship Police Commander and the head of the Internal Security Agency shall immediately provide the authority which conducts proceedings concerning the registration of the residence or the issue of the residence card of a member of a Union citizen's family with the information whether the residence of the Union citizen or the family member who is not a Union citizen constitutes a threat to the country's defences or security or for the protection of public safety and order.

Article 24

The authority which conducts the proceedings concerning the registration of residence shall establish whether the obligation to possess sufficient financial resources referred to in Article 16 (1) (2) or (3) has been fulfilled.

Article 25

If during the proceedings concerning the issue of a residence card of a member of a Union citizen's family, the circumstances point to the fact that:

- (1) one of the spouses accepted a financial benefit in return for the consent for contracting a marriage, unless it results from a custom established in a given state or a social group;
- (2) the spouses do not fulfil the legal responsibilities arising from the marriage;
- (3) matrimonial cohabitation is not maintained;
- (4) the spouses have never met before their marriage;
- (5) the spouses do not speak a language understood by both;
- (6) the spouses are inconsistent about their respective personal details and about other important circumstances concerning them;
- (7) one or both of the spouses had contracted a marriage of convenience in the past;

the authority which conducts the proceedings shall establish whether the marriage with the Union citizen is not a marriage of convenience.

Article 26

The authorities conducting administrative proceedings on registration of residence or of issuing residence card of the Union citizen family member may apply, in special well founded cases, through the chief commander of police, to the relevant authority of the Member State to provide information on the person under proceeding that are registered in the police data bases.

Article 27

1. The registration of the residence is made in the register of residence of a Union citizen.
2. Union citizen whose residence was registered is issued a certificate of registration of Union citizen residence.

Article 28

1. The following information are placed in the certificate of registration of Union citizen residence or residence card of Union citizen family member:
 - (1) First name(s) and Family name;
 - (2) Date and place of birth;
 - (3) Citizenship
 - (4) Gender
 - (5) Registered address of the place of permanent residence within the territory of the Republic of Poland, and in case there is none – registered address of temporary residence for period exceeding 3 months; in case there is not any registered address of the place of permanent or temporary residence exceeding 3 months these data shall not be included;
 - (6) Public Electronic System of Population Evidence (PESEL) number – if assigned;
 - (7) The date of issue and the name of the authority.
2. The certificate of registration of the Union citizen residence shall also include the date of the residence registration, and the residence card of the Union citizen family member – the expiry date, photograph and signature of the holder.
3. The residence card of the Union citizen family member may include encoded record of personal data as described in paragraph (1) (1) to (1) (3) above.

Article 29

1. While collecting certificate of registration of residence of Union citizen or residence card of the Union citizen family member, a valid travel document shall be produced together with confirmation of the payment of the fee due as described in Article 40 below. If the documents are collected by plenipotentiary – also the document confirming power of attorney to collect documents or card. Union citizen may produce other valid document proving identity and citizenship.
2. Collection of document confirming right of permanent residence or residence card of the Union citizen family member is proven by signature on the application form submitted.

Article 30

1. Union citizen family member who is not a Union citizen is obliged to be in possession of a residence card of the Union citizen family member who confirms this person's right to permanent residence within territory of Republic of Poland and enables, together with relevant travel document, to cross the border of Republic of Poland without a visa.
2. The residence card of the Union citizen family member is valid for 5 years. In case the intended residence of the Union citizen that the family member joins or accompanies, within the territory of Republic of Poland does not exceed 5 years, the residence card is valid within the period of Union citizen intended residence.

Article 31

1. Union citizen may be refused registration of residence and Union citizen family member who is not a Union citizen may not be issued a residence card in following circumstances:
 - (1) If the conditions of the residence as described in this chapter are not fulfilled,
or
 - (2) If the residence of a Union citizen or a family member who is not a Union citizen within the territory of Republic of Poland constitutes a threat for defence or State security or protection of public security or public order.
2. The family member who is not a Union citizen may also be refused residence card of the Union citizen family member in the case of marriage of convenience.

Article 32.

1. The certificate on registration of Union citizen residence or the residence card of the family member shall be replaced in the case if:
 - (1) The data in the documents needs to be amended
 - (2) The document is destroyed
2. The residence card of the Union citizen family member shall be replaced also in case if:
 - (1) Appearance of the person changes in a way that makes the establishment of the person's identity difficult
 - (2) Expires
3. In case the certificate of registration of Union citizen residence or residence card of the Union citizen family member is lost, a new certification or the card is issued.

Article 33.

1. The replacement or issue of new document certifying the registration of Union citizen residence shall take place immediately upon the application of the Union citizen, and the replacement or issue of new document of residence card of the Union citizen family member – immediately upon the application of Union citizen family member who is not a Union citizen.
2. The application shall be submitted in person. The requirement of personal submission does not apply to minors.
3. The application for:
 - (1) Replacement of residence card of the Union citizen family member shall be accompanied by residence card of the Union citizen family member in possession and photographs;
 - (2) The issue of new document certifying the right for permanent residence or residence card of the Union citizen family member shall be accompanied by photographs.
4. While submitting application for replacement or issue of a new certificate of registration of Union citizen residence, a valid travel or other valid document confirming person's identity and citizenship shall be produced.
5. While submitting the application for replacement or issue of new residence card for Union citizen family member a valid travel document shall be produced.

Article 34.

The provisions of Article 29 are applicable in the case of collection of new document certifying the registration of Union citizen residence or new residence card of a Union citizen family member.

Article 35.

The registration of residence shall be cancelled in following circumstances:

- (1) The document was issued on the basis of forged or processed documents or false information, or
- (2) The residence of the Union citizen within the territory of Republic of Poland constitutes serious danger for State defence or security, or protection of public security and public order.

Article 36.

Residence card of the Union citizen family member is cancelled in following circumstances:

- (1) The residence of a Union citizen family member who is not a Union citizen within the territory of Republic of Poland constitutes serious danger for State defence or security, or protection of public security and public order, or
- (2) The card was issued on the basis of forged or processed documents or false information, or
- (3) The marriage of Union citizen family member who is not a Union citizen was of convenience, or
- (4) The Union citizen family member does not fulfil the conditions as described in this chapter.

Article 37.

1. The residence card of the Union citizen family member, in the case of annulment or death of the family member shall be returned immediately to the authority that issued the card.
2. The person obliged to return the residence card of the Union citizen family member is:
 - (1) In the case of annulment – the family member who is not a Union citizen
 - (2) In the case of death of Union citizen or family member who is not a Union citizen – the persons responsible for reporting death, in accordance with the provisions of the Act of 26 September 1986 – Registry Office Records Act (Dz.U. of 2004, No 161, item 1688).

Article 38.

Refusal or annulment of the registration of residence, refusal to replace the residence certificate of the Union citizen, refusal to issue or replace, and annul the residence card of a family member of the Union citizen are made by way of decision.

Article 39.

1. The Voivod competent for the place of residence of the Union citizen shall be responsible for the registration of residence or annulment of the registration of residence, for replacement or issuing of a new certificate of registration of residence of Union citizen, issuing, replacement or annulment of the residence card of the Union citizen family member.

2. The Voivod relevant to the place of residence of a family member shall be responsible for issuing, replacement or annulment of the residence card of the family member of Union citizen in cases described in Article 19 (2) and Article 19 (3).

Article 40.

1. The certificate of the registration of the Union citizen residence, or residence card of the Union citizen family member shall be issued or replaced after the fee is paid.
2. The fee shall be considered income of the state budget.
3. The minister competent for internal affairs working together with the minister competent for public finance shall decide, by way of ordinance, on the amount and the way the fee for issuing or replacement of certificates of Union citizen residence or residence card of Union citizen family member is paid, taking into consideration unit cost of production and issuing or replacement of the documents, although the cost of the abovementioned fees cannot exceed the fee charged for issuing of ID for Polish nationals.

Article 41.

1. The Minister competent for internal affairs shall decide, by way of ordinance, on:
 - (1) The templates of applications used for:
 - (a) registry of residence,
 - (b) replacement or issuing new certificate of registration of residence of Union citizen,
 - (c) issuing or replacement of the residence card of Union citizen family member;
 - (2) Documents that shall be attached to application on the registration of residence or issuing residence card for Union citizen family member, taking into consideration the EU provisions on this subject;
 - (3) Number of photographs and requirements concerning the photographs attached to the application on issuing or replacement of the residence card for Union citizen family member;
 - (4) Templates of the certificates of registration of residence of Union citizen and residence card of Union citizen family member.
2. The ordinance described in point 1 above shall include:

- (1) Data referred to in Article 8 within the scope as necessary to register the residence, to replace or issue new certificate of registration of residence of Union citizen, and issuing or replacement of residence card for Union citizen family member;
- (2) Data referred to in Article 28 (1) and Article 28 (2).

Chapter 4

Right of permanent residence

Article 42.

The Union citizen shall obtain right of permanent residence after five years of continuous residence within the territory of Republic of Poland, if all the conditions of residence referred to in Chapter 3 were fulfilled within this period.

Article 43.

The family member who is not a Union citizen shall obtain right of permanent residence after five years of continuous residence within the territory of Republic of Poland with Union citizen, if all the conditions of residence referred to in Chapter 3 were fulfilled within this period.

Article 44.

1. The family member who is a Union citizen, and that resided within the territory of Republic of Poland continuously for the period of five years and that retained the right of residence on the basis of Article 19 (1), shall be granted right of permanent residence if:
 - (1) Fulfils at least one of the conditions referred to in Article 16, (1) (1) to Article 16, (1) (3), or
 - (2) Became a family member of Union citizen who fulfils at least one of the conditions referred to in Article 16, (1) (1) to Article 16, (1) (3).
2. The family member who is not a Union citizen, and who resided within the territory of Republic of Poland continuously for the period of five years, and who retained the right of residence on the basis of Article 19 (2) or Article 19 (3), shall be granted the right of permanent residence if:

(1) Fulfils at least one of the conditions referred to in Article 16, (1) (1) and Article 16 (1) (2), or

(2) During the residence within the territory of Republic of Poland became a member of the family of a person who fulfils at least one of the conditions referred to in Article 16, (1) (1) and Article 16 (1) (2).

Article 45.

1. The right of permanent residence can be granted before the 5 year period expires to persons who:

(1) Are employed or self-employed and who in the moment this person finished working on their own behalf or finished other economic activity on their own behalf, reached the retirement age referred to in Polish legislation concerning retirement insurance or the person who finished working to exploit the possibilities connected with early retirement in case such person worked or conducted other economic activities on own behalf within the territory of Republic of Poland and resided within the territory of Republic of Poland continuously for the period of more than three years;

(2) Employee or a self-employed person who ceased to work or to conduct economic activities on own behalf within the territory for the reason of permanent inability to perform work, in case this person resided within the territory of Republic of Poland continuously for more than two years;

(3) Employee or a self-employed person, who, after working continuously for the period of three years within the territory of Republic of Poland, performs work or other economic activity in other Member State, residing at the same time within the territory Republic of Poland or visiting territory of Republic of Poland at least once a week.

2. Performance of job or performance of other form of economic activity on own behalf in other Member States is also considered to be performance of job or performance of other form of economic activity on own behalf within the territory of Republic of Poland, referred to in paragraph (1) (1) and (1) (2) above.

3. The provisions of (1) (2) above apply also in case of the employee or person working on own behalf who, while retaining residence within the territory of Republic of

Poland, performs job or other form of economic activity in other Member State and ceased the performance for the reason of permanent inability to perform work.

4. The requirements concerning the length of continuous residence and performance of work or other form of economic activity on own behalf referred to in (1) (1) above as well as the requirement concerning the length of continuous residence referred to in (1) (2) above do not apply to the spouse of Polish national.
5. The requirement concerning the length of continuous residence referred to in (1) (2) does not apply in case the cessation of work or other form of economic activity on own behalf is caused by permanent inability to perform work resulting from accident or occupational disease.
6. The periods of job performance or performance of other form of economic activity on own behalf include:
 - (1) The periods of unintentional unemployment as registered in Poviats employment office registers;
 - (2) Periods of cessation of employment or performance of other form of economic activities on own behalf that do not depend on the will of the person referred to in (1) above;
 - (3) Periods when the work was not performed or other form of economic activities were not performed as result of illness or accidents.

Article 46.

1. The right of permanent residence as obtained by the employee or person working on own behalf on the basis of Art 45 above extends to the family member who resides with such person within the territory of Republic of Poland, without regard to this person citizenship.
2. In case the employee or person working on own behalf dies during the period of employment or performance of other form of economic activity before obtaining the right of permanent residence on the basis of Article 45 above the family member who resided with such person within the territory of Republic of Poland in the day of this person death, shall be granted the right of permanent residence without regard to this person citizenship, if:
 - (1) The employee or person working on own behalf resided within the territory of Republic of Poland at least for two years before death or

- (2) The death of the employee or person working on own behalf was caused by accident or occupational disease.

Article 47.

4. The residence within the territory of Republic of Poland is considered to be continuous if the intervals in the residence do not exceed total of 6 months in a year.
5. The residence within the territory of Republic of Poland is not interrupted by intervals longer than referred to in (1) above for the purpose of:
 - (1) Compulsory military service or
 - (2) Crucial individual situation, especially pregnancy, childbirth, illness, periods of studies, vocational training, delegations that requires the residence outside territory of Republic of Poland if the interval does not exceeds the period of 12 consecutive months.
6. The residence within the territory of Republic of Poland is interrupted by execution of the decision to expel the Union citizen or family member who is not a Union citizen.

Article 48.

1. Union citizen who obtained the right of permanent residence according to conditions referred to in this chapter is given a document certifying the permanent residence right.
2. The family member who is not a Union citizen, and that obtained the right of permanent residence according to conditions referred to in this chapter, is obliged to obtain the residence card of the family member of Union citizen.

Article 49.

1. The issuing of the document certifying the right of permanent residence is based on the application of Union citizen, while residence card for family member of Union citizen - on the application of the family member who is not a Union citizen.
2. The application shall be submitted in person. This requirement does not apply to minors.
3. The family member who is not a Union citizen shall submit application for issuing residence card for Union citizen family member before the term of validity of residence card of family member of Union citizen expires.
4. The application shall be accompanied with photographs.

5. While submitting application for issuing the document certifying the right of permanent residence or residence card for family member of Union citizen, the person is obliged to produce a valid travelling document. The Union citizen may produce other valid document certifying identity and citizenship.

Article 50.

The document certifying the right of permanent residence shall be issued immediately after the application is submitted and the residence card of Union citizen family member – not later than within 6 months from the date the application is submitted. The abovementioned deadlines also apply to rejection of issuing of the documents.

Article 51.

1. The provisions of Article 23 are applicable in case on proceedings on issuing of document certifying permanent residence right.
2. The provisions of Article 23 and Article 25 are applicable in case on proceedings on issuing of residence card for family member of Union citizen.

Article 52.

1. The document certifying permanent residence of Union citizen of residence card of family member of Union citizen shall include the following data:
 - (1) Name (names) and surname;
 - (2) Date and place of birth;
 - (3) Citizenship
 - (4) Gender
 - (5) Registered address of the place of permanent residence within the territory of the Republic of Poland, and in case there is none – registered address of temporary residence for period exceeding 3 months; in case there is not any registered address of the place of permanent or temporary residence exceeding 3 months these data shall not be included;
 - (6) Public Electronic System of Population Evidence (PESEL) number – in case it was assigned;
 - (7) The name of the authority issuing, including the date of issue and expiry date;
 - (8) Photograph and signature of the holder.

2. The document certifying the right of permanent residence or residence card of the Union citizen family member may include encoded record of personal data referred to in paragraph (1) (1) to (1) (3) above.

Article 53.

1. While collecting document certifying right of permanent residence or residence card of the Union citizen family member the documents certifying identity of the person collecting documents together with the documents certifying payment of the fee, referred to in Article 64 shall be produced. In case the documents are collected by plenipotentiary – also the document certifying power of attorney to collect documents or card.
2. Collection of document certifying the right of permanent residence or residence card of the Union citizen family member is proven by signature on the application form submitted.

Article 54.

Union citizen family member is obliged to have in possession a residence card of the Union citizen family member who confirms this person right to permanent residence within territory of Republic of Poland and enables, together with relevant travelling document, to cross the boarder of Republic of Poland without a visa.

Article 55.

The document certifying the right for permanent residence and residence card of the Union citizen family member are valid for ten years from the date of issue.

Article 56.

1. The document certifying right for permanent residence or residence card of the Union citizen family member shall not be issued in following circumstances:
 - (1) If the conditions regarding permanent residence referred to in this chapter were not fulfilled, or
 - (2) The residence of Union citizen or Union citizen family member within the territory of Republic of Poland threatens the defence or public security of the State or protection of public security and public order.

2. Union citizen family member who is not a Union citizen shall be refused residence card of the Union citizen family member also in case of marriage of convenience.

Article 57.

1. Document certifying the right of permanent residence or residence card of the Union citizen family member shall be replaced in case if:
 - (1) The data included in the document is not longer valid;
 - (2) The document is lost or there are other circumstances that make establishment of a person identity difficult;
 - (3) The validity period of the document expires.
2. In case the document certifying the right of permanent residence or residence card of the Union citizen family member is lost, a new document or card shall be issued.

Article 58.

1. The replacement or issue of new document certifying the right of permanent residence shall take place immediately on the application of the Union citizen, and the replacement or issue of new document of residence card of the Union citizen family member – immediately on the application of Union citizen family member who is not a Union citizen.
2. The application shall be submitted in person. The requirement of personal submission does not apply to minors.
3. The application for:
 - (1) Replacement of the document certifying the right for permanent residence shall be accompanied by the document certifying the right for permanent residence and photographs;
 - (2) Replacement of residence card of the Union citizen family member shall be accompanied by residence card of the Union citizen family member in possession and photographs;
 - (3) The issue of new document certifying the right for permanent residence or residence card of the Union citizen family member shall be accompanied by photographs.

Article 59.

The provisions of Article 53 are applicable in cases of collection of new document certifying the right for permanent residence or new residence card of the Union citizen family member.

Article 60.

1. The document certifying the right for permanent residence is cancelled in following circumstances:
 - (3) The document was issues on the basis of forged or processed documents or false information, or
 - (4) The residence of the Union citizen within the territory of Republic of Poland constitutes serious threat for State defence or security, or protection of public security and public order.
2. Residence card of the Union citizen family member is cancelled in following circumstances:
 - (1) The card was issued on the basis of forged or processed documents or false information, or
 - (2) The residence of a Union citizen family member who is not a Union citizen within the territory of Republic of Poland constitutes serious threat for State defence or security, or protection of public security and public order.
 - (3) The marriage of Union citizen family member who is not a Union citizen was of convenience.
3. Residence card of the Union citizen family member may be cancelled in case if the family member who is not a Union citizen left the territory of Republic of Poland pro the period longer than two consecutive years.

Article 61.

1. The document certifying the right for permanent residence or residence card of the Union citizen family member in cases of cancelling or in case of person's death shall be returned to the authority that issued such documents.
2. The return of the document certifying the right for permanent residence or residence card of the Union citizen family member is compulsory if:
 - (1) In case of cancelling:
 - (a) the document certifying the right for permanent residence – Union citizen

- (b) residence card of the Union citizen family member - family member who is not a Union citizen;
- (2) In case of death of Union citizen or family member who is not a Union citizen – the persons responsible for reporting death, in accordance with the provisions of the Act of 26 September 1986 – Registry Office Records Act.

Article 62.

The refusal to issue or replace the document certifying the right for permanent residence or residence card of the Union citizen family member is made by way of decision.

Article 63.

1. The authority competent to issue, replace or cancel the document certifying the right for permanent residence or residence card of the Union citizen family member is the Voivod relevant to the place of residence of the Union citizen.
2. The authority competent to issue, replace or cancel residence card of the Union citizen family member in case referred to in Article 44 and Article 46 (2) is the Voivod relevant to the place of residence of the family member.

Article 64.

1. The document certifying the right for permanent residence or residence card of the Union citizen family member is issued or replaced after the fee is paid
2. The fee is considered to be an income of the state budget.
3. The minister competent for internal affairs working together with the minister competent for public finance shall decide, by way of ordinance, on the amount and the way the fee for issuing or replacement of certification of Union citizen residence or residence card of Union citizen family member is paid, taking into consideration unit cost of production and issuing or replacement of the documents, although the cost of the abovementioned fees cannot exceed the fee charged for issuing of ID for Polish nationals.

Article 65.

1. The Minister competent for internal affairs shall decide, by way of ordinance, on:
 - (1) The templates of applications used for:

- (a) issue or replacement of the document certifying the right for permanent residence,
 - (b) issue or replacement of residence card of the Union citizen family member;
 - (2) Number of photographs and requirements concerning photographs attached to applications for issuing or replacement of the document certifying the right for permanent residence or residence card of the Union citizen family member;
 - (3) Template of the document certifying the right for permanent residence or residence card of the Union citizen family member.
2. The ordinance as mentioned in (1) above shall include:
- (1) Data referred to in Article 8 within the scope as necessary to issue or replace the document certifying the right for permanent residence or residence card of the Union citizen family member.
 - (2) Data referred to in Article 52 (1).

Chapter 5

Expulsion from the territory of the Republic of Poland

Article 66

1. Union citizens or their family members without Union citizenship, who do not enjoy the right of permanent residence, may receive an expulsion decision in the case when their residence on the territory of the Republic of Poland constitutes a threat for defence policy or national security, as well as for public safety, public order or public health.
2. Diseases occurring after a three-month period from the date of arrival of a Union citizen or family member without Union citizenship on the territory of the Republic of Poland shall not constitute grounds for expulsion from the territory on grounds of public health.
3. Minister competent for public health shall define, by way of ordinance, a list of diseases that would justify taking an expulsion decision against Union citizens or their family members without Union citizenship on grounds of public health.
4. The only diseases taken into account in the Ordinance referred to in (3) shall be the diseases with epidemic potential as defined by the relevant instruments of the World Health Organisation and other infectious diseases or contagious parasitic diseases if

they are the subject of protection provisions applying to nationals of the host Member State in accordance with the Act of 6 September 2001 on contagious diseases and infections (Dz. U. No 126, item 1384, as amended⁸).

Article 67

Union citizens or their family members without Union citizenship, who enjoy the right of permanent residence, may receive an expulsion decision in the case when their residence on the territory of the Republic of Poland constitutes a threat for defence policy or national security, as well as for public safety or public order.

Article 68

An expulsion decision may not be taken against Union citizens, if they have resided in the Republic of Poland for the period exceeding ten years, except if the decision is based on imperative grounds of national defence, national or public security by means of constituting a threat for peace, humanity, independence or defence of the Republic of Poland, or due to terrorist activity.

Article 69

A minor Union citizen cannot receive an expulsion decision, except if:

- (1) circumstances referred to in Article 68 occur, or
- (2) the expulsion is necessary for the best interests of the child, as provided for in the United Nations Convention on the Rights of the Child of 20 November 1989 (Dz. U. of 1991, No 120, item 526, and of 2000, No 2, item 11).

Article 70

In the proceedings related to expulsion of a Union citizen or his/her family member without Union citizenship, the following shall be taken into account:

- (1) how long the individual concerned has resided on the territory of the Republic of Poland;
- (2) his/her age and state of health;
- (3) family and economic situation;
- (4) social and cultural integration into the Republic of Poland; and

⁸ Amendments to the abovementioned Act were published in Dz. U. of 2003: No 45, item 391, and No 199, item 1938, as well as of 2004: No 96, item 959, No 173, item 1808, and No 210, item 2135.

(5) the extent of his/her links with the country of origin.

Article 71

1. Expulsion decision shall oblige a Union citizen or his/her family member without Union citizenship to leave the territory of the Republic of Poland within the period no longer than 31 days.
2. Should the national defence, national security or public security and order so require, expulsion decision may ordain that a Union citizen or his/her family member without Union citizenship be transported under escort to the border of the Republic of Poland, or to the border of the country to which he/she is expelled, or to the airport or marine port of such country.
3. Enforcement of expulsion decision shall be also ordained if a Union citizen or his/her family member without Union citizenship fails to leave the territory of the Republic of Poland within the period specified in the expulsion decision.

Article 72

1. Should a claim be filed to administrative court with respect to expulsion decision, together with an application for the superseding of its execution, the execution period shall be prolonged until the day when the court decision enters into force.
2. Provisions of (1) shall not apply if the expulsion decision is based on imperative grounds of national defence, national or public security by means of a threat for peace, humanity, independence or defence of the Republic of Poland, or due to terrorist activity.

Article 73

The decision to expel the Union citizen or a family member who is not a Union citizen, ex officio or on the request of the Minister of National Defence, Head of the Internal Security Agency, Head of the Foreign Intelligence Agency, Commander in Chief of the Border Guard, Commander in Chief of the Polish Police, voivode competent for the place of stay of the Union citizen or a family member who is not a Union citizen or a place of disclosure of the fact or incident which is the basis of submission of the application to expel the Union citizen or a family member who is not a Union citizen.

Article 74

1. Mandatory execution of the decision to expel from the territory of the Republic of Poland shall be performed by:
 - (1) Chief Commander of the Regional Police competent for the place of stay of the Union citizen or a family member who is not a Union citizen – in the scope of assisting to the border;
 - (2) Commander in Chief of the Border Guard or the Border Guard Unit Commander competent for the place in which the border is crossed - in the scope of assisting to the border of the state to which the Union citizen or a family member who is not a Union citizen is expelled, or to the airport or seaport of that state.
2. The body referred to in Paragraph 1 (2) shall immediately notify the voivod who issued the decision to expel, on leaving the territory of the Republic of Poland by the Union citizen or a family member who is not a Union citizen.
3. The voivod who issued the decision to expel shall notify the municipal authority competent for the place of registry for permanent or temporary residence for more than 3 months of the Union citizen or a family member who is not a Union citizen on their leaving the territory of the Republic of Poland in relation to the execution of the decision to expel.

Article 75

The bodies set about mandatory executing the decision to expel, 2 years after its issuing, shall notify the voivod who issued the decision thereof and withhold its execution until the proceedings referred to in Article 76 are terminated.

Article 76

1. The voivod who issued the decision to expel, in the case referred to in Article 75, shall initiate proceedings *ex officio* to determine the existence of circumstances which justify the revoking of the decision.
2. Should:

- (1) the Union citizen or a family member who is not a Union citizen no longer pose threat to country's defences or safety, or protection of public safety and order, or
 - (2) the circumstances which influenced its issuing be subject to significant modification
- the voivod shall revoke the decision to expel.

Article 77

1. Data regarding the Union citizen or a family member who is not a Union citizen, who left the territory of the Republic of Poland as a result of execution of the decision to expel issued due to the threat to country's defences or safety, or protection of public safety and order, shall be stored in the register for the period of 5 years.
2. Once the period referred to in Paragraph 1 expires, data on the Union citizen or a family member who is not a Union citizen shall be deleted from the register.

Article 78

1. Entry to the register, extension of the period of application of the entry and deletion of the entry shall be made by the President of the Office for Repatriation and Foreign Nationals ex officio.
2. Deletion of the entry may be made on the request of the person whose data have been entered to the register if the circumstances, which influenced issuing the decision to expel, have changed significantly.
3. In the case referred to in Paragraph 2, the President of the Office for Repatriation and Foreign Nationals shall issue a decision to delete the entry to the register within 2 months from the day of submission of the application.

Chapter 6

Records concerning Union citizens and family member who are not Union citizens

Article 79

The voivod shall keep records in the IT system concerning Union citizens and family members who are not Union citizens, including:

- (1) the stay of the Union citizen;
- (2) residence cards of a family member of a Union citizen;
- (3) documents certifying the right of permanent residence;
- (4) cards of permanent residence of a family member of a Union citizen.

Article 80

The records shall include data referred to in Article 8, concerning Union citizens and family member who are not Union citizens, against whom proceedings are conducted in cases stipulated by the Act and in addition:

- (1) the records referred to in Article 79 (1) shall include:
 - (a) information concerning applications for registration of stay and exchange of lessons learned about the registration of stay of the Union citizen,
 - (b) information concerning the registration of stay,
 - (c) first name and surname, official post of the employee who made entry to the records,
 - (d) information concerning issuing and change of the certificate of registration of residence of the Union citizen,
 - (e) information concerning administrative decisions, rulings and judgements of the court concerning refusal and invalidation of the registered stay;
- (2) the records referred to in Article 79 (2) shall include information concerning:
 - (a) applications to issue and change the residence card of a family member of a Union citizen,

- (b) date of issuance, number, series and the date of validity of the document certifying the right of permanent residence,
 - (c) administrative decisions, rulings and judgements of the court concerning the change and invalidation of the residence card of a family member of a Union citizen;
- (3) the records referred to in Article 79 (3) shall include information concerning:
- (a) applications to issue and change the document certifying the right of permanent residence,
 - (b) date of issuance, number, series and the date of validity of the document certifying the right of permanent residence,
 - (c) administrative decisions, rulings and judgements of the court concerning the change and invalidation of the document certifying the right of permanent residence;
- (4) the records referred to in Article 79 (4) shall include information concerning:
- (a) applications to issue and change the card of permanent residence of a family member of a Union citizen,
 - (b) date of issuance, number, series and the date of validity of the card of permanent residence of a family member of a Union citizen,
 - (c) administrative decisions, rulings and judgements of the court concerning the change and invalidation of the card of permanent residence of a family member of a Union citizen.

Chapter 7

Penal provisions

Article 81

Persons who:

(1) fail to fulfil the obligation to register stay in the territory of the Republic of Poland,

(2) evade the obligation to hold or change the residence card of a family member of a Union citizen or a card of permanent residence of a family member of a Union citizen,

(3) contrary to the obligation, fail to return the residence card of a family member of a Union citizen, the document certifying the right of permanent residence or the card of permanent residence of a family member of a Union citizen

- shall be punishable by a fine.

Article 82

Cases concerning acts referred to in Article 81 shall be adjudicated within a course set out in the Act of 24 August 2001 - Code of petty offences' proceedings (Dz.U. of 2001 No 106, item 1148, as amended⁹).

Chapter 8

Amendments to the provisions in force

Article 83

The Act of 15 February 1962 on Polish citizenship (Dz.U. of 2000 No 28, item 353, as amended¹⁰) shall be amended as follows:

(1) Article 8 (1) shall read as follows:

“1. A foreign national may be granted Polish citizenship on his/her request if he/she has been living in the territory of the Republic of Poland for at least 5 years pursuant to the permit to settle, long-term resident's EC residence permit or having right of permanent residence.“;

⁹ Amendments to the consolidated Act have been published in Dz.U. of 2003 No 109, item 1031 and No 213, item 2081, of 2004 No 128, item 1351 and of 2005 No 132, item 1103 and No 143, item 1203.

¹⁰ Amendments to the consolidated Act have been published in Dz.U. of 2001 No 42, item 475, of 2003 No 128, item 1175 and of 2005 No 94, item 788.

(2) Article 10 (1) and Article (1a) shall read as follows:

“1. A foreign national who has been married to a Polish citizen for at least 3 years, who has been living in the territory of the Republic of Poland pursuant to the permit to settle, long-term resident's EC residence permit or having right of permanent residence, may be granted Polish citizenship if he/she submits appropriate declaration by the date set out in Paragraph 1a to the competent body and that body issues a decision to approve the declaration.

1a. The deadline for submission of the declaration of intention to acquire Polish citizenship shall be 3 years and 6 months from the day of entering into marriage with a Polish citizen or 6 months from the day of obtaining by the foreign national of the permit to settle, long-term resident's EC residence permit or acquiring right of permanent residence.”;

(3) Article 18f shall be repealed.

Article 84

The Act of 10 April 1974 on registration of population and identity cards (Dz.U. of 2001 No 87, item 960, as amended¹¹) shall be amended as follows:

(1) Article 1 (3) (3) shall read as follows:

“(3) authorising Polish citizens to cross borders of European Union Member States, states of the European Economic Area which are not European Union Member States and states which are not parties to the agreements on European Economic Area, the citizens of which may use the freedom of movement of persons pursuant to agreements concluded by those states with the European Community and its Member States which recognise the document as sufficient to cross their borders.”;

(2) Article 12 (3) shall read as follows:

¹¹ Amendments to the consolidated Act have been published in Dz.U. of 2001 No 110, item 1189, of 2002 No 74, item 676 and No 78, item 716, of 2003 No 128, item 1176 and No 130, item 1190, of 2004 No 93, item 887 and of 2005 No 62, item 550 and No 94, item 788.

“3. Children up to 7 years of age shall be released from the obligation of registration for temporary residence for the period not exceeding 3 months.”;

(3) Article 15 (3) shall read as follows:

“3. Person leaving abroad for a period longer than 3 months shall report his/her departure and return to the body competent for place of permanent residence specified in Paragraph 1. The departure shall be reported no later than on the day of departure from a current place of residence, and the return - no later than on the fourth day from the day of return.”;

(4) Article 16 shall read as follows:

“Article 16.1. Should the period of temporary residence of up to 3 months correspond to the period reported during registration, the person leaving the place of stay shall be released from the obligation to register his/her departure.

2. Person leaving the place of temporary residence of up to 3 months before the time reported during registration shall register his/her departure no later than on the day of leaving that place.”;

(5) Article 24 (1) shall read as follows:

“1. A foreign national staying outside the hotel centre, centre providing living quarters with relation to work, education, treatment or leisure shall register for temporary residence no later than on the fourth day, counting from the moment of crossing the border of the Republic of Poland.”;

(6) Article 26:

(a) Paragraph 2 shall read as follows:

“2. The national of the European Union Member State and a family member who is not a national of the European Union Member State, performing registration for permanent

residence, shall provide data required for registration, and at the same time the national of the European Union Member State shall present a valid travel document or other valid document certifying the right of permanent residence, and the family member who is not a national of the European Union Member State - a valid travel document and a valid card of permanent residence of a family member of a Union citizen.”,

(b) Paragraphs 4 and 5 shall read as follows:

“4. The national of the European Union Member State and a family member who is not a national of the European Union Member State, who perform registration for temporary residence of over 3 months, shall provide data required for registration, and at the same time the national of the European Union Member State shall present a valid travel document or other valid document certifying his/her identity and citizenship as well as a certificate of registration of residence of the Union citizen or, in case of lack of the certificate, shall provide a declaration of registration of residence in the territory of the Republic of Poland, and the family member who is not a national of the European Union Member State - a valid travel document and a valid residence card of a family member of a Union citizen.

5. Provisions of Paragraphs 2 and 4 shall apply to citizens of states of the European Economic Area outside the European Union or states which are not parties to the agreements on European Economic Area, who may use the freedom of movement of persons pursuant to agreements concluded by those states with the European Community and its Member States, as well as to their family members.”;

(7) Article 44a:

(a) Paragraph 1 (1) (c) and Paragraph 1 (1) (d) shall read as follows:

“(c) collection of data concerning Polish citizens and foreign nationals registered for temporary residence of over 3 months,

(d) collection of data concerning Polish citizens and foreign nationals registered for temporary residence of up to 3 months,”

(b) Paragraph 2 (20) and Paragraph 2 (21) shall read as follows:

“(20) series and number of the document certifying the right of permanent residence, the date of its issuance, the date of its validity and indication of the issuing authority,

(21) series and number of the card of permanent residence of a family member of a Union citizen, the date of its issuance, the date of its validity and indication of the issuing authority.”,

(c) Paragraph 4 (3) and Paragraph 4 (4) shall read as follows:

“(3) the date of issuance, series and number of the certificate of registration of residence of the Union citizen, and indication of the issuing authority,

(4) series and number of the residence card of a family member of a Union citizen, the date of its issuance, the date of its validity and indication of the issuing authority.”,

(d) Paragraph 6 shall read as follows:

“6. The registration file referred to in Paragraph 1 (1) (d) shall also contain a date of crossing the border, reported by the foreign national when fulfilling the registration obligation.”;

(8) wording, such as “of over 2 months” or “of over two months”, used in Article 8 (1) and Article 8 (3), Article 9 (2a), Article 14 (1), Article 15 (1), Article 15 (1a), Article 15 (2) and Article 15 (4), Article 26 (3), Article 29 (1), Article 31a (3) (1) and Article 31a (3) (2), Article 37 (1) (3), Article 44a (2) (15) and Article 44e (3) (10) in singular or plural, in various cases shall be replaced with the wording “of over 3 months”, used in singular or plural, in an appropriate case.

Article 85

The following Paragraphs 3 and 4 shall be added to Article 21 of the Act of 6 April 1990 on the Police (Dz.U. of 2002 No 7, item 58, as amended¹²):

¹² Amendments to the consolidated Act have been published in Dz.U. of 2002 No 19, item 185, No 74, item 676, No 81, item 731, No 113, item 984, No 115, item 996, No 176, item 1457 and No 200, item 1688, of 2003 No

“3. The prohibition laid down in Paragraph 1 shall not apply either if the competent authority of a European Union Member State applies to the Police Commander in Chief for information about the person applying in that state for registration of stay or issuing a residence card of a family member of a Union citizen, which information is stored in the Police databases.

4. The Police Commander in Chief shall provide information referred to in Paragraph 3 within 2 months from the day of receiving the application.”.

Article 86

In the Act of 7 September 1991 on education system (Dz.U. of 2004 No 256, item 2572, as amended¹³), Article 94a (2a) shall read as follows:

“2a. Family members referred to in Paragraph 2 (1) shall mean persons specified in Article 2 Subparagraph 4 of the Act of 24 May 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members (Dz.U. No ..., item ...).”.

Article 87

In the Act of 19 November 1999 – business activity law (Dz.U. No 101, item 1178, as amended¹⁴), Article 7a (1a) shall read as follows:

“1a. With respect to persons maintaining their place of permanent residence outside the territory of the Republic of Poland:

(1) Polish citizens,

90, item 844, No 113, item 1070, No 130, item 1188 and 1190, No 137, item 1302, No 166, item 1609, No 192, item 1873 and No 210, item 2036, of 2004 No 171, item 1800, No 179, item 1842, No 210, item 2135, No 273, item 2703 and No 277, item 2742 and of 2005 No 10, item 70, No 164, item 1365, No 169, item 1411 and No 250, item 2116.

¹³ Amendments to the consolidated Act have been published in Dz.U. of 2004 No 273, item 2703 and No 281, item 2781 and of 2005 No 17, item 141, No 94, item 788, No 122, item 1020, No 131, item 1091, No 167, item 1400 and No 249, item 2104.

¹⁴ Amendments to the consolidated Act have been published in Dz.U. of 2000 No 86, item 958 and No 114, item 1193, of 2001 No 49, item 509, No 67, item 679, No 102, item 1115 and No 147, item 1643, of 2002 No 1, item 2, No 115, item 995 and No 130, item 1112, of 2003 No 86, item 789, No 128, item 1176 and No 217, item 2125 and of 2004 No 54, item 535, No 91, item 870 and No 173, items 1807 and 1808.

(2) citizens of states referred to in Article 13 (1) of the Act of 2 July 2004 on freedom of conducting business activity (Dz.U. No 173, item 1807, as amended¹⁵), hereinafter referred to as the “Act”,

(3) citizens of states with which the Republic of Poland has concluded international agreements referred to in Article 13 (3) of the Act

- taking business activity in the territory of the Republic of Poland, competent municipal authorities for record purposes shall be determined according to the location of conducting such activity in the territory of the Republic of Poland.”.

Article 88

The Act of 9 September 2000 on the stamp duty (Dz.U. of 2004 No 253, item 2532, as amended¹⁶) shall be amended as follows:

(1) Article 2 (1) (1) (l) shall read as follows:

“(1) citizens of states of the European Economic Area outside the European Union or states which are not parties to the agreements on European Economic Area, who may use the freedom of movement of persons pursuant to agreements concluded by those states with the European Community and its Member States, as well as their family members,”;

(2) in Annex to the Act, Part IV Permits, Section 5, Column 4 shall read as follows:

“entry visa to stay or to join a national of the European Union Member State, state of the European Economic Area outside the European Union or state which is not party to the agreement on European Economic Area, who may use the freedom of movement of persons pursuant to agreements concluded by that state with the European Community and its Member States”.

¹⁵ Amendments to the consolidated Act have been published in Dz.U. of 2004 No 281, item 2777, of 2005 No 33, item 289, No 94, item 788, No 143, item 1199, No 175, item 1460, No 177, item 1468, No 178, item 1480, No 179, item 1485, No 180, item 1494 and No 183, item 1538 and of 2006 No 17, item 127.

¹⁶ Amendments to the consolidated Act have been published in Dz.U. of 2005 No 14, item 115, No 48, item 447, No 62, item 550, No 90, item 757, No 94, item 788, No 113, item 954, No 143, item 1199, No 153, item 1272, No 169, item 1418, No 175, item 1458 and No 179, item 1485 and of 2006 No 50, item 360.

Article 89

The Act of 13 June 2003 on foreign nationals (Dz.U. No 128, item 1175, as amended¹⁷) shall be amended as follows:

(1) Article 3 (2) shall have the following wording:

“(2) nationals of Member States of the European Union, nationals of the states of the European Economic Area which are not Member States of the European Union or states that are not parties to the agreement on the European Economic Area who may enjoy free movement of persons on the basis of agreements signed by these countries with the European Community and its Member States, and members of their families, with the exception of:

- (a) Articles 93, 94, 96, 100, Chapters 9 and 10, Article 124 (1) (g), Article 124 (2), Article 124 (4), Article 125 (1) (2) within the scope concerning Article 124 (1) (g), Article 126 (1) (4), Article 126 (1) (7), Article 126 (2), Article 127, Article 128 (2), Articles 131-134, which apply to the nationals of the Member States of the EU, states of the European Economic Area which are not Member States of the European Union and states that are not parties to the agreement on the European Economic Area, who may enjoy free movement of persons on the basis of agreements signed by these countries with the European Community and its Member States, and members of their families,
- (b) Article 25, Article 26 (3) (d), Article 29 (3), Article 45 (1), Article 45 (1a), Article 45 (2), Article 48 (1) (1), Article 48 (3), Article 48 (5)-(7), Articles 49, 52, 84a, Chapter 8a, Article 124 (1) (a), Article 125 (1) (1), Article 126 (1) (1) (a), which apply to members of families of the nationals of the Member States of the EU, states of the European Economic Area which are not Member States of the European Union and states that are not parties to the agreement on the European Economic Area, who may enjoy free movement of persons on the basis of agreements signed by these countries with the European Community and its Member States, not being nationals of these states;”;

(2) Article 16 (1) (1)-(2) shall have the following wording:

“(1) a Polish national residing in the territory of the Republic of Poland, as well as a national of a Member State of the EU, a state of the European Economic Area which is not Member State of the European Union and a state that is not party to the agreement on the European

¹⁷ Amendments of the Act have been announced in Dz.U. of 2004, No 96 item 959 and No 179 item 1842, as well as of 2005 No 90 item 757, No 94 item 788 and item 1105 and No 163 item 1362.

Economic Area, who may enjoy free movement of persons on the basis of agreements signed by this country with the European Community and its Member States and a member of his/her family, residing in the territory of the Republic of Poland with the right of residence or right of permanent residence in this territory;

(2) a foreign national legally residing in the territory of the Republic of Poland immediately prior to the issue of the invitation for a period of at least five years, or having the permit to settle or long-term resident's EC residence permit;";

(3) In Article 26 (3) (c), a semicolon shall be replaced by a comma and letter (d) shall be added in the following wording:

“(d) for the purpose of residing or joining a national of a Member State of the EU, a state of the European Economic Area which is not Member State of the European Union or a state that is not party to the agreement on the European Economic Area whose the nationals may enjoy free movement of persons on the basis of agreements signed by these countries with the European Community and its Member States;”;

(4) In Article 29, after paragraph 2, the following paragraph 3 shall be added:

“3. The entry visa referred to in Article 26 (3) (d) shall give right to unlimited number of entries, and its validity period shall be 3 months.”;

(5) Article 47 shall have the following wording:

“Article 47. 1. A foreign national who demonstrates that because of exceptional and urgent circumstances, in particular humanitarian grounds, reasons of professional nature or a vital interest of the Republic of Poland, his/her entry into, residence on or transit through the territory of the Republic of Poland is necessary and due to unforeseeable and imperative reasons he/she has not been able to obtain a visa issued by a consul, may be issued with a transit visa or residence visa by the commandant officer of the Border Guard checkpoint for the purpose referred to in Article 26 (4) (b)-(f) and Article 26 (4) (i).

2. A foreign national who proves that he/she is bound by family bonds with a national of a Member State of the EU, a state of the European Economic Area which is not Member State of the European Union or a state that is not party to the agreement on the European Economic Area who may enjoy free movement of persons on the basis of agreements signed by these countries with the European Community and its Member States, residing in the territory of the

Republic of Poland, may be issued with an entry visa by the commandant officer of the Border Guard checkpoint for the purpose referred to in Article 26 (3) (d).

3. The visa referred to in paragraphs 1 and 2 shall authorise to one entry into the territory of the Republic of Poland within the period of its validity equal to the period of residence, however, not exceeding 15 days.

4. Proceedings in the case for the issue of a visa referred to in paragraphs 1 and 2 may be limited to activities referred to in Article 24.

5. The issue of the decision on refusal of a visa referred to in paragraphs 1 and 2 shall be recorded in the travel document of the foreign national.”;

(6) In Article 53:

(a) in paragraph 5:

- after point (1), the following point (1a) shall be added:

“(1a) is a member of the clergy, member of an order, seminarian, novice, postulant or junior of the Catholic Church, other church or religious community;”,

- point (2) shall have the following wording:

“(2) demonstrates that due to circumstances other than those specified in (1), (1a) and paragraph 1, his/her residence on the territory of the Republic of Poland within the period of more than 3 months is justified, in particular due to family bonds with a Polish national or a national of a Member State of the EU, a state of the European Economic Area which is not Member State of the European Union or a state that is not party to the agreement on the European Economic Area who may enjoy free movement of persons on the basis of agreements signed by this country with the European Community and its Member States resident in this territory.”,

(b) paragraph 7 shall have the following wording:

“7. A foreign national referred to in paragraph 1 (1), (2), (7), (9), (13) and (14) and in paragraph 5 (1)-(2) shall be obliged to possess:

(1) a stable and regular source of income, enough to cover the maintenance costs of the foreign national and members of his/her family supported by him/her;

(2) health insurance within the meaning of provisions on common health insurance or documents confirming that the costs of medical treatment in the territory of the Republic of Poland shall be covered by an insurer.”,

(c) after paragraph 7, the following paragraph 7a shall be added:

“7a. The foreign national referred to in paragraph 5 (1a) shall be obliged to meet the requirement referred to in paragraph 7 (2).”;

(7) Article 59 shall have the following wording:

“Article 59. An alien is obliged to leave the territory of the Republic of Poland prior to the expiry of the validity of the residence permit for a specified period of time, unless he/she was granted the successive residence permit for a specified period of time, permit to settle or long-term resident’s EC residence permit.”;

(8) In Article 65:

(a) in paragraph 1, the introduction to the list shall have the following wording:

“1. A long-term resident’s EC residence permit shall be granted to a foreign national residing legally and continuously in the territory of the Republic of Poland for a period of at least 5 years directly prior to the application, who possesses:”;

(b) paragraph 2 (4) shall have the following wording:

“(4) who works as an “au pair worker”, a seasonal worker, a worker posted by a service provider for the purposes of cross-border provision of services or a cross-border provider of services;”;

(9) After Article 99, Article 99a shall be added in the following wording:

„Article 99a. 1. Provisions of Articles 88, 90, 91, 95 and 97-99 shall not apply to foreign nationals having access to the labour market in the territory of the Republic of Poland in accordance with the rules specified in legal acts issued by bodies created by the EEC-Turkey Association Agreement signed in Ankara on 12 September 1963 (OJ L 217 of 29.12.1964, p. 3687) and to members of their families. Within the scope regulated by these provisions, provisions of Chapter 5 of the Act of 24 May 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members.

2. The following are members of the family of the foreign national, referred to in paragraph 1:

(1) his/her spouse

(2) his/her descendant or the descendant of his/her spouse, aged up to 21 or maintained by the foreign national, referred to in paragraph 1, or his/her spouse

(3) his/her direct ascendant or the ascendant of his/her spouse, maintained by the foreign national, referred to in paragraph 1, or his/her spouse.”;

(10) In Article 124 (1) (k), a semicolon shall be replaced by a comma and letter (l) shall be added in the following wording:

“(l) issue of Polish travel documents to a foreign national;”;

(11) Article 125 (1) (2) shall have the following wording:

“(2) in point (1) letters (b)-(d), (g), (j), (l) shall be run by a voivod”

(12) In Article 126 (1):

(a) in point 1, letters (c) and (d) shall have the following wording:

“(c) referred to in letter (c), related to foreign nationals covered by proceedings on granting and withdrawal of the permit to settle, as well as the information on the date of issue, number, series and validity date of the residence card,

(d) referred to in letter (j), related to foreign nationals covered by proceedings on granting and withdrawal of the long-term resident’s EC resident permit, as well as the information on the date of issue, number, series and validity date of the residence card;”,

(b) point (2) shall have the following wording:

“(2) referred to in letters (d), (e) and (l) - information on first name(s), family name, date and place of birth and citizenship of a foreign national, information on the date of issue, number, series and the validity date of the Polish identity document for the foreigner or the Polish travel document for the foreigner, as well as information on applications submitted for the issue or exchange of those documents and on decisions refusing their issue;”;

(13) Article 132 (2) shall have the following wording:

2. The Poby System shall consist of:

(1) the registers referred to in Article 124 (1) (a)-(h), (j) and (l), with exception of the registers run by a consul;

(2) the register, referred to in Article 124 (3);

(3) the index referred to in Article 124 (4);

(4) the register of cases concerning granting the refugee status and granting assistance to foreign nationals applying for the refugee status;

(5) the register of cases concerning the expulsion of persons with the refugee status;

(6) the register of cases concerning asylum;

(7) the register of cases concerning the permit of tolerated stay;

- (8) the register of cases concerning the temporary protection;
- (9) the register of residence of a Union citizen;
- (10) the register of residence cards of a family member of the Union citizen;
- (11) the register of documents confirming the right of permanent residence;
- (12) the register of permanent residence cards of a family member of the Union citizen;
- (13) the register of applications submitted, rulings and decisions rendered in the following cases:
 - (a) concerning the issue of the entry visa for the purpose of repatriation;
 - (b) concerning the assistance granted to repatriates from the state budget,
 - (c) concerning the recognition as a repatriate;
- (14) the register of persons applying for the issue of the entry visa for the purpose of repatriation and members of their families, who are not secured the accommodation or maintenance in the Republic of Poland;
- (15) the central register of data on the granting and loss of Polish citizenship.”;

(14) Article 133 (4) shall have the following wording:

“4. The authority obliged to run registers referred to in Article 124 (1) (a)-(h), (j)-(l) and Article 124 (2)-(3), as well as in Article 132 (2) (4)-(15), shall have access to data processed in the *Pobyt* System in the register referred to in Article 124 (1) (k) and in the register of the fingerprints taken from the foreign national on the basis of Article 14 (2), Article 93 (1), Article 98 (4) and Article 101 (3), within the scope of data gathered in registers run by this authority.”;

(15) Article 141 (1) shall have the following wording:

“1. The President of the Office for Repatriation and Foreign Nationals, further referred to as “the President of the Office”, shall be the central authority of the government administration competent with respect to issues regulated by the Act, entry into, residence in and departure from the Republic of Poland of the nationals of European Union Member States, states of the European Economic Area which are not Member State of the European Union or states that are not party to the agreement on the European Economic Area who may enjoy free movement of persons on the basis of agreements signed by these countries with the European Community and its Member States, as members of their families staying with them or joining them, repatriation, granting the refugee status, asylum, permit of tolerated stay and temporary protection, as well as matters related to Polish citizenship following from the scope of

functions of government administration, except for competencies reserved for other authorities.”;

(16) Article 143 (1) (1) (e) shall have the following wording:

“(e) in the Act of 24 May 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members”.

Article 90

The Act of 13 June 2003 on granting protection to foreign nationals within the territory of the Republic of Poland (Dz. U. No 128, item 1176, as amended¹⁸) shall be amended as follows:

(1) Article 16 (3) (1) shall have the following wording:

“(1) he/she in a possession of the residence authorisation for a fixed period, the permit to settle, the long term resident’s EC residence permit, the residence permit or the temporary residence permit;”;

(2) Article 56 (4) (1) shall have the following wording:

“(1) resides on the territory of the Republic of Poland on the basis of the residence authorisation for a fixed period, the permit to settle, or the long-term resident’s EC resident permit or the tolerated stay permit;”.

Article 91

In the Act of 27 June 2003 on social benefit (Dz. U. No 135 item 1268 as amended¹⁹), Article 2 (3) shall have the following wording:

“(3) the nationals of European Union Member States, states of the European Economic Area which are not Member State of the European Union or states that are not party to the Agreement on the European Economic Area who may enjoy free movement of persons on the basis of agreements signed by these countries with the European Community and its Member States residing and staying in the territory of the Republic of Poland, having the right of residence or right of permanent residence in the territory of the Republic of Poland.”.

¹⁸ Amendments of the Act have been announced in Dz. U. of 2004, No 96 item 959, No 173 item 1808 and No 210 item 2135, and of 2005 No 90 item 757 and No 94 item 788.

¹⁹ Amendments of the Act have been announced in Dz. U. of 2004 No 96 item 959 and No 120 item 1252 and of 2005 No 94 item 788.

Article 92

In the Act of 12 March 2004 on social assistance (Dz. U. No 64 item 593 as amended²⁰), Article 5 (3) shall have the following wording:

“(3) the nationals of European Union Member States, states of the European Economic Area which are not Member State of the European Union or states that are not party to the Agreement on the European Economic Area who may enjoy free movement of persons on the basis of agreements signed by these countries with the European Community and its Member States residing and staying in the territory of the Republic of Poland, having the right of residence or right of permanent residence in the territory of the Republic of Poland.”.

Article 93

The Act on employment promotion and labour market institutions of 20 April 2004 (Dz. U. No 99, item 1001, as amended²¹) shall be amended as follows:

1) in Article 1:

a) paragraph 3 (2) and (3) shall read:

„(2) foreign persons who seek and start employment within the territory of the Republic of Poland and who:

- a) are Union citizens;
- b) are nationals of European Economic Area states outside the area of the European Union;
- c) are nationals of the states that are not party to the Agreement creating the European Economic Area, with which the European Community and its Member States have concluded agreements on the freedom of movement of persons;
- d) have refugee status in the Republic of Poland;
- e) have a permit to settle in the Republic of Poland;
- f) have a European Communities' long-term residence permit in the Republic of Poland;
- g) have a residence permit for a specified period of time in the Republic of Poland, granted in connection with the circumstance referred to in Article 53, paragraph 1,

²⁰ Amendments of the Act have been announced in Dz. U. of 2004 No 99 item 1001 and No 273 item 2703 and of 2005 No 64 item 565, No 94 item 788, No 164 item 1366, No 175 item 1462, No 179 item 1487 and No 180 item 1493.

²¹ Amendments to the said Act were published in Dz. U. of 2004: No 273, item 2703, and of 2005: No 64, item 565, No 94, item 788, No 164, item 1366 and No 175, item 1462.

subparagraph 13 of the Act of 13 June 2003 on Foreign Persons (Dz. U. No. 128, item 1175, as amended²²);

- h) have a residence permit for a specified period of time in the Republic of Poland as a member of a family of a foreign person referred to in Article 53, paragraph 1, subparagraph 13 or Article 54 of the Act of 13 June 2003 on Foreign Persons;
- i) have consent for a tolerated stay in the Republic of Poland;
- j) enjoying temporary protection in the Republic of Poland;
- k) applying to obtain a status of refugee in the Republic of Poland, said foreign persons not having been handed with a decision in the first instance within one year upon the submission of application and the extension of proceedings being not their fault;

3) foreign persons being members of the families of the foreign persons referred to in subparagraph 2, letters a to c;”

b) paragraph 4 shall read as follows:

„4. Under the rules specified in this Act, both the persons referred to in paragraph 3, subparagraphs 1 and 2, letters a to g and i and j, and foreign persons being members of families of Polish nationals shall be entitled to receive benefits and other allowances due to unemployment.”;

2) in Article 2 (1):

a) in subparagraph 2, introduction to enumeration shall read:

„unemployed – this shall mean the person referred to in Article 1, paragraph 3, subparagraph 1 and subparagraph 2, letters a to g and i and j or a foreign person being a member of the family of a Polish national, neither employed nor performing other paid work but capable of and ready to start full-time employment applicable in a given profession or service or other paid work, or, in the case of a disabled person capable of and ready to start employment at least on a half-time basis, not learning in school, except for persons learning in schools for adults and taking external examinations covering the curricula of such schools or learning in evening, part-time or external higher education schools, registered in a poviats employment office competent for his or her permanent or temporary place of residence and seeking employment or other paid work, provided that such person:”

b) subparagraph 22 shall read:

²² Amendments to the said Act were published in Dz. U. of 2004: No 96, item 959 and No 179, item 1842, and of 2005: No 90, item 757, No 94, item 788, No 132, item 1105 and No 163, item 1362.

„(22) job-seeker – this shall mean the non-employed person referred to in Article 1, paragraph 3, subparagraphs 1 to 3, or a foreign person being a family member of a Polish national, seeking employment or other paid work, and an employed person declaring the intent and readiness to start other paid work or employment on an increased work time basis, as well as additional or other employment or other paid work; such person being registered in a poviats employment office;”;

c) subparagraph 30 shall read:

„(30) promise – this shall mean a promise to issue a work permit to a foreign person provided that he or she obtains an appropriate visa, or a residence authorisation for a specified period or the certificate of the registered residence of Union citizen, or residence card of a member of Union citizen’s family;”;

d) subparagraph 39 shall read:

„(39) EURES services – this shall mean the labour market services provided by public employment services, trade unions and employers’ organizations and consisting, in particular, of job brokerage and mobility guidance on the labour market of both the Republic of Poland and the states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c;”;

3) in Article 4:

a) paragraph 1 (2) (d) shall read as follows:

„(d) the implementation of tasks resulting from the right to free movement of employees between the states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, in particular, by taking and coordinating activities in voivodships and poviats concerning participation of the public employment services in the EURES network;”;

b) paragraph 1a shall read as follows:

„1a. The minister competent for social security shall perform tasks related to the coordination of social security schemes of the states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, within the scope of allowances for the unemployed, in particular, by carrying out duties of a liaison institution.”;

4) in Article 8 (1) (8) and Article 8 (1) (9) shall read:

„(8) the implementation of tasks resulting from the coordination of social security schemes of the states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, within the scope of allowances for the unemployed, in particular:

(a) acting as the competent authority,

(b) acceptance and consideration of applications submitted by the unemployed regarding the issue of relevant certificates with respect to allowances for the unemployed,

(c) issuing decisions on allowances for the unemployed;

(9) the implementation of tasks resulting from the right to free movement of employees between the states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, in particular, by implementing activities concerning participation in the EURES network, including:

(a) supporting and coordinating implementation of tasks in the voivodship in cooperation with the minister competent for labour and with poviats government, trade unions and employers' organisations,

(b) providing EURES services;”;

5) in Article 9 (1) (15) and Article 9 (1) (16) shall read:

„(15) the implementation of tasks related to the coordination of social security schemes of the states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, within the scope of allowances for the unemployed, including decisions referred to in Article 8, paragraph 1, subparagraph 8, letter c;

(16) the implementation of tasks resulting from the right to free movement of employees between the states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, in particular, by implementing activities concerning participation in the EURES network, including provision of EURES services in cooperation with the minister competent for labour and with voivodship government, trade unions and employers' organisations;”;

6) in Article 37 (1), introduction to enumeration shall read:

„EURES services are provided on the territories of states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, and include in particular:”;

7) in Article 71:

a) paragraph 1 (2) (g) shall read as follows:

„(g) paid contributions to the Labour Fund in respect of employment or performance of other paid work abroad for the foreign employer in state other than referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, in the amount of 9.75% of average remuneration for every month of employment,”,

b) paragraph 7 shall read as follows:

„7. The period required for entitlement to receive benefit also includes periods of employment in states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, in accordance with the provisions on coordination of social security schemes of the European Union Member States.”,

c) after paragraph 7, paragraph 8 is added, reading as follows:

„8. Minister competent for labour shall define, by way of ordinance, detailed conditions and procedures for the payment of contributions to the Labour Fund by persons starting employment or other paid work abroad for the foreign employer in state other than referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, taking into account the rules for the payment of social security contributions, lack of possibility to pay those contributions for retrospective periods and their return, unless they have been paid in the amount exceeding the required sum.”;

8) Article 72 (5a) (b) shall read as follows:

„(b) periods of employment or other paid work that occurred before 1 May 2004 abroad for the foreign employer in state referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, for which contributions were paid to the Labour Fund.”;

9) Article 75 (4) and (5) shall read as follows:

„4. For an unemployed person who had acquired the right to receive unemployment benefit in the Republic of Poland and who relocates to other European Union Member State or state referred to in Article 1, paragraph 3, subparagraph 2, letters b and c, in order to find a job, the right to receive such benefit is maintained.

5. Benefits for an unemployed person referred to in (4) are paid in the manner specified by provisions on the coordination of social security schemes of the states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c.”;

10) Article 86 (1) shall read as follows:

„1. Documented periods of the employment of Polish nationals and nationals of the states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, abroad with foreign

employers shall be included in the periods of work in the Republic of Poland as regards employees' rights.”;

11) in Article 87:

a) the current content shall be marked as paragraph 1,

b) in paragraph 1:

- subparagraph 2 shall read:

„(2) persons having a permit to settle in the Republic of Poland;”,

- after subparagraph 2a, subparagraph 2b shall be added, reading:

„(2b) have a European Communities' long-term residence permit in the Republic of Poland;”,

- subparagraphs 5, 5a and 5b shall read as follows:

„(5) family members of a Polish national being nationals of the states referred to in Article 1, paragraph 3, subparagraph 2, letters a to c;

(5a) the spouse of a Polish national not being a national of a state referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, if he or she holds a residence authorisation for a specified period of time on the territory of the Republic of Poland granted in connection with his or her entering into a marriage;

5b) descendants, referred to in Article 2, paragraph 1, subparagraph 8, letter b, of a Polish national or a foreign person who is a spouse of a Polish national, as referred to in subparagraph 8, not being a national of a state referred to in Article 1, paragraph 3, subparagraph 2, letters a to c, if he or she holds a residence authorisation for a specified period of time on the territory of the Republic of Poland;”,

- subparagraph 8 shall read as follows:

„(8) foreign persons who are:

(a) Union citizens;

(b) nationals of European Economic Area states outside the area of the European Union;

nationals of states with which the European Union concluded agreements on free movement of persons;

(c) nationals of the states that are not party to the Agreement creating the European Economic Area, with which the European Community and its Member States have concluded agreements on the freedom of movement of persons;

(d) family members of the foreign persons referred to in (a) to (c), as well as descendants of spouses of such foreigners, aged under 21 or dependent on such foreigners or their spouses, and ascendants of such foreigners or their spouses, dependent on such foreigners or their spouses.”,

c) paragraphs 2 and 3 shall be added, reading as follows:

„2. With respect to foreigners referred to in paragraph 1, subparagraph 8, restrictions of access to the labour market can apply, if such possibility is provided by international treaties.

3. Restrictions of access to the labour market shall not apply if a foreigner referred to in paragraph 1, subparagraph 8, has a right of permanent residence.”;

12) in Article 88:

a) paragraphs 2 and 3 shall read as follows:

„2. The issue of a work permit shall be conditional upon the employer’s prior obtaining of a promise and the foreign person’s obtaining of the:

(1) appropriate visa or

(2) residence authorisation for a specified period of time on the territory of the Republic of Poland, or

(3) certificate of the registered residence of Union citizen, or

(4) residence card of a member of Union citizen’s family.

3. If the foreign person holds the:

(1) appropriate visa or

(2) residence authorisation for a specified period of time on the territory of the Republic of Poland, or

(3) certificate of the registered residence of Union citizen, or

(4) residence card of a member of Union citizen’s family, or

(5) temporary identity card of a foreigner and certificate referred to in Article 30a, paragraph 1 of the Act of 13 June 2003 on granting protection to foreign nationals on the territory of the Republic of Poland (Dz. U. No 128, item 1176, as amended²³)

- decision on the work permit shall be issued. Decision on the work permit shall also be issued on the basis of the valid travel document or other valid document certifying identity and

²³ Amendments to the said Act were published in Dz. U. of 2004: No 96, item 959 and No 179, item 1842, and of 2005: No 90, item 757, No 94, item 788, No 132, item 1105 and No 163, item 1362.

citizenship, referred to in Article 9, paragraph 1 or 2 of the Act of 24 May 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members (Dz. U. No..., item ...).”

b) paragraph 8 shall read as follows:

„8. A foreign person’s promise and work permit shall be issued upon the employer’s request, for a specified period of time, for a specific foreign person and employer, for a specific job or kind of performed work. The permit shall be issued on the conditions set out in the promise, for a period not longer than:

- (1) the duration of stay specified in the appropriate visa, or
- (2) the validity period of the residence authorisation for a specified period of time in the territory of the Republic of Poland, or
- (3) the validity period of the residence card of the Union citizen’s family member, or
- (4) the period indicated in the certificate issued under Article 30a, paragraph 1 of the Act of 13 June 2003 on granting protection to foreign persons on the territory of the Republic of Poland.

If the promise has been issued, the permit shall be issued after obtaining the employer’s written confirmation of the date when the foreign person starts the performance of work. The date when the foreign person starts the performance of work may not be earlier than the date of issue of the decision on work permit. Upon the employer’s request, the promise and work permit of a foreign person may be extended.”;

13) Article 90 (6) shall read as follows:

„6. In the situation referred to in Article 87, subparagraph 2, the minister competent for labour may determine, by way of ordinance, the scope of limitations on the performance of work by foreign persons in the territory of the Republic of Poland, having regard for the protection of the Polish labour market.”.

Article 94

The Act of 2 July 2004 on the freedom of economic activity (Dz.U. No 173, item 1807, as amended²⁴) shall be amended as follows:

²⁴ The amendments to the Act were published in Dz.U. of 2004, No 281, item 2777, of 2005, No 33, item 289, No 94, Item 788, No 143, item 1199, No 175, item 1460, No 177, item 1468, No 178, item 1480, No 179, item 1485, No 180, item 1494 and No 183, item 1538 and of 2006, No 17, item 127.

(1) Article 13:

(a) paragraph 1 shall be replaced by the following:

“1. Foreign persons from the European Union Member States, the European Economic Area states which do not belong to the European Union and from the states which are not parties to the agreement on the European Economic Area, who may use the freedom of entrepreneurship on the basis of the agreements concluded by those states with the European Community and its Member States, shall be allowed to undertake and carry out economic activity on the same conditions as Polish nationals.”;

(b) a semicolon and the following subparagraph shall be added to paragraph 2 (2):

“(3) are the members of the families within the meaning of Article 2 (4) of the Act of 24 May 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members (Dz.U. No ..., item ...), who join the nationals of the states referred to in paragraph 1 or who stay with them.”;

(2) Article 23 (2) shall be replaced by the following:

“2. For the following persons retaining the place of permanent residence outside the territory of the Republic of Poland:

(1) Polish nationals;

(2) nationals of the states referred to in Article 13 (1);

(3) nationals of the states with which the Republic of Poland concluded international agreements referred to in Article 13 (3)

- who undertake economic activity on the territory of the Republic of Poland, the territorial competence of the municipality for registration purposes shall be established according to the main place of conducting the activity on the territory of the Republic of Poland.”;

(3) Article 33 (4) shall be replaced by the following:

“4. The provisions of paragraph 3 shall apply accordingly to the change of the main place of conducting economic activity in the case of persons referred to in Article 23 (2).”;

(4) Article 85 (2) shall be replaced by the following:

“2. The provision of Article 13 (1) shall apply accordingly to the establishment of branches by foreign entrepreneurs from the European Union Member States, the European Economic Area states which do not belong to the European Union and from the states which are not parties to the agreement on the European Economic Area, who may use the freedom of entrepreneurship on the basis of the agreements concluded by those states with the European Community and its Member States.”

Article 95

Article 43 (6) of the Act of 27 July 2005 – Law on higher education (Dz.U. No 164, item 1365 and of 2006, No 46, item 326) shall be replaced by the following:

“6. The persons referred to in Article 2 (4) of the Act of 24 May 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members (Dz.U. No ..., item ...) shall be considered the members of the families of the persons referred to in paragraph 2 (4) and paragraph 5.”

Article 96

In Article 31 of the Act of 29 July 2005 on the amendment of certain acts due to the changes in the division of duties and powers of local administration (Dz.U. No 175, item 1462, No 189, item 1604 and No 267, item 2257):

(1) subparagraph 3 shall be replaced by the following:

“(3) The first sentence of Article 87 (1) shall be replaced by the following:

“A foreign national may work on the territory of the Republic of Poland, provided that he/she has a work permit issued by the Voivodship Marshall competent for the seat of the employer.”

(2) in subparagraph 4:

(a) letter (a) shall be repealed;

(b) letters (b) and (c) shall be replaced by the following:

“(2) referred to in paragraph 1 (2) – shall be applied for by the foreign employer; the decision about the work promise and permit shall be issued by the Voivodship Marshall competent for the place of the provision of the export service;

(3) referred to in paragraph 1 (3) - shall be applied for by the foreign employer or the entity at which the task specified by the delegating body shall be carried out; the decision about the work promise and permit shall be issued by the Voivodship Marshall competent for the seat of the entity at which the task shall be carried out.”;

(c) paragraphs 6 to 9 shall be replaced by the following:

“6. The promise and permit for work of a foreign national at the units reporting to the minister competent for culture and protection of national heritage, minister competent for physical culture and sports, minister competent for science, minister competent for tourism, minister competent for higher education, minister competent for health care, minister competent for education and the President of the Polish Academy of Sciences shall be issued by the Voivodship Marshall provided that the conditions laid down in the provisions of the Act and the separate provisions have been fulfilled.

7. The work promise and permit shall be issued to the employer by the Voivodship Marshall, taking into account the situation on the local labour market and the criteria referred to in Article 8a (1) (1). The Voivodship Marshall may, in the cases justified by the situation on the labour market, limit the scope of work to the management activities and representation of the entity. The Voivodship Marshall may also take into account the entity’s usefulness for the labour market and economy.

8. The work promise and permit for a foreign national shall be issued at the request of the employer, for a specified period, for a specific foreign national and employer, for a specific position or type of work. The permit shall be issued on conditions laid down in the promise, for a period not longer than:

(1) the period of the stay laid down in the relevant visa; or

(2) the validity period of the residence permit for a fixed period of time on the territory of the Republic of Poland; or

(3) the validity period of the residence card of the member of the family of the Union citizen; or

(4) the period indicated in the certificate issued on the basis of Article 30a (1) of the Act of 13 June 2003 on granting protection to foreign nationals on the territory of the Republic of Poland.

If the work promise was issued the permit shall be issued after obtaining a written confirmation from the employer concerning the date on which the foreign national shall begin to work. The date of the beginning of work shall not be earlier than the date of the issue of the decision on the work permit. The work promise and permit for a foreign national may be prolonged at the request of the employer.

9. The Voivodship Marshall shall forward the copies of the issued decisions at the request of the competent tax office, Social Insurance Institution or a consul.”

Chapter 9

Transitional and final provisions

Article 97

1. Residence permits, temporary residence permits, residence cards of the Union citizen and the residence documents issued pursuant to the Act referred to in Article 104 shall be valid for the period for which they were issued.
2. The permits to settle granted to the Union citizens and the members of their families pursuant to the Act of 29 March 1963 on foreign nationals (Dz.U. of 1992, No 7, item 30 and No 25, item 112 and of 1995, No 23, item 120), the Act of 25 June 1997 on foreign nationals (Dz.U. of 201, No 127, item 1400, as amended²⁵) and the Act of 13 June 2003 on foreign nationals, residence authorisation for a fixed period granted to the members of the families of the Union citizens pursuant to the Act of 25 June 1997 on foreign nationals or the Act of 13 June 2003 on foreign nationals shall remain valid for the period for which they were issued unless otherwise stated in the acts.
3. Long-term resident's EC residence permits granted to the members of the families of the Union citizens pursuant to the Act of 25 June 1997 on foreign nationals and the

²⁵ The amendments to the consolidated text of the Act were published in Dz.U. of 2002, No 41, item 365, No 74, item 676, No 81, item 731, No 89, item 804, No 141, item 1180 and No 153, item 1271 and of 2003, No 97, item 894 and No 101, item 942.

documents issued on the basis of those acts shall remain valid for the period for which they were issued unless otherwise stated in the acts.

4. The possession of a residence permit, a permit to settle or a long-term resident's EC residence permit exempts the Union citizen from the obligation to register their residence referred to in Article 20.
5. The possession of a residence permit, a permit to settle or a long-term resident's EC residence permit exempts the family member who is not a Union citizen from the obligation to have a residence card of the member of the family of the Union citizen referred to in Article 20.

Article 98

The persons who have the residence permit granted in accordance with the previous regulations shall have the right to residence on the territory of the Republic of Poland pursuant to this Act.

Article 99

The provisions of this Act shall apply to the proceedings concerning the residence permits or temporary residence permits, initiated before the entry into force of the Act and not finished with a final decision.

Article 100

The decisions on granting aid to foreign nationals in respect of whom the refugee status proceedings were initiated pursuant to the Act of 13 June 2003 on granting protection to foreign nationals on the territory of the Republic of Poland and who received the consent for a tolerated stay shall expire within three months after the date of the entry into force of the Act.

Article 101

The data of the Union citizens and the members of their families, collected in the register in accordance with the previous regulations, shall be stored for a period for which they were entered, unless it is incompatible with this Act.

Article 102

The previous entries into the registers kept pursuant to the Act of 13 June 2003 on foreign nationals, which concern the applications for granting residence permit for a specified period of time, a permit to settle or a long-term resident's EC residence permit to foreign nationals who are the Union citizens or the members of their families and the decisions issued in such cases, as well as the entries into the registers kept pursuant to the Act referred to in Article 104 shall remain in force.

Article 103

The existing implementing act issued pursuant to Article 90 (6) of the Act amended in Article 93 shall remain valid until the entry into force of the implementing act issued pursuant to Article 90 (6) of the Act amended in Article 93, in the wording specified herein, however, for not longer than 12 months from the date of the entry into force of this Act.

Article 104

The Act of 27 July 2002 on the terms and conditions of the entry into and the residence in the territory of the Republic of Poland of the nationals of the EU Member States and the members of their families (Dz.U. No 141, item 1180, of 2003, No 128, item 1175, of 2004, No 96, item 959 and No 173, item 1808 and of 2005, No 90, item 757) shall hereby be repealed.

Article 105

The Act shall enter into force within 14 days from its publishing, except for Article 94 (2) and (3) and Article 96 which shall enter into force on 1 January 2007.