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Doing business in Poland

WARSAW, MAY 2023

KEY INFORMATION

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1. The country at a glance

What languages are spoken?

The official language in Poland is Polish. Among foreign languages, English has become predominant, particularly among managers and other professionals. German, French and Russian are also often encountered.

What is the exchange rate for the US dollar, the Euro?

As of 22 May 2023, the average exchange rates for the Polish zloty (PLN) were EUR 1 = PLN 4.52 and USD 1 = PLN 4.17.

The country's geography, proximity to other countries and climate

Poland is a country in Central Europe, bordering the Baltic Sea. Most of the territory is lowlands, but there are highlands and mountain ranges in the southern part of the country. Poland lies in a transitional climate zone between the fairly moderate oceanic climate to the west and the more continental climate to the east. Poland is crossed by various air currents as a result of its location in the centre of Europe and the parallel arrangement of the geographical lands. The average temperature in summer ranges from 16.5 to 20°C and in winter between -6 and 0°C. The average annual air temperature in Poland is 7-9°C (apart from mountain regions).

Are there religious influences or prohibitions on the way business is conducted?

The Polish legal system does not display any particular religious factors that directly affect the conduct of business. The only restrictions that may exist are those sanctioned at the statutory level.

The country's infrastructure

Rail infrastructure

Polish State Railways (Polskie Koleje Państwowe) operates in the form of a capital group comprising PKP SA and various operating subsidiaries handling passenger and freight carriage and infrastructure.

PKP SA owns and manages a significant portion of the railway stations and railway infrastructure in Poland. It manages 2,790 stations. Reform of the Polish railway sector has been underway for several years. A key stage of organisational restructuring has been completed, restructuring of finances and assets have been undertaken, and restructuring of employment has begun. The first stage of reform is privatisation of PKP Cargo, the leader in the rail transport of goods in Poland. PKP Cargo has been listed on the Warsaw Stock Exchange since 2013.

Aviation infrastructure

The largest airport in Poland is Warsaw Chopin International Airport. Although half of Poland's air passengers pass through the Warsaw airport, its relative prominence is expected to fall as traffic grows in other regions which had previously been artificially restricted. Other busy airports with scheduled international flights include those in Bydgoszcz, Gdańsk, Kraków, Katowice, Lublin, Łódź, Olsztyn, Poznań, Rzeszów, Szczecin, Wrocław and Zielona Góra. A second airport in the Warsaw area, in Modlin, serves as a regional airport complementing the main Warsaw Chopin Airport.

The flagship national carrier is LOT Polish Airlines.

Maritime infrastructure

With direct access to the Baltic Sea and a coastline of 528 km, Poland has favourable conditions for development of its maritime economy. Maritime transport and port services are a highly profitable sector. The main ports are at Gdańsk, Gdynia, Świnoujście and Szczecin. The largest of these is the seaport at Gdańsk. At the end of 2022, a canal was opened, connecting the Vistula Lagoon with the Gdansk Bay, increasing the importance of Elbląg.

Public transport

The public transit system is well-developed in major cities, with an extensive network of bus and tram lines (and, in Warsaw, the country's only metro system). It is difficult to present an overall model of operations of municipal transit in Poland because each city administers the system under its own regulations. There are certain typical features, however, such as the need to purchase a ticket for transit, a differentiated fare schedule, and the use of tourist cards providing unlimited travel for visitors.

Communication system

The stationary telephone services market is now growing slowly in Poland and is dominated by Orange Polska SA (part of the Orange Group). There is much faster growth on the mobile market, where four major players now compete: T-Mobile (operated by T-Mobile Polska SA), Plus (operated by Polkomtel sp. z o.o.), Orange (operated by Orange Polska SA), and Play (operated by P4 sp. z o.o.).

Public services—i.e. water, electricity, gas. Are they publicly or privately owned?

Public services are provided directly to citizens (within the public sector) by the public administration, or via financing of private commercial companies contracted to provide specific services. Issues considered within the area of public services are not directed to just one of these groups (e.g. only to governmental agencies) but are applicable to all of them regardless of the organisational solutions in place within a given territorial governmental unit.

Public services cover an extensive and varied range of areas that are hard to assess briefly. Some are in poor condition (e.g. the public healthcare system), while others function well (e.g. public supply of water, gas and power). Assessment is also difficult because of variations in services offered across different territorial divisions within the country (provinces, counties and local districts).

2. General considerations

Investment policies

Poland is regarded as a reliable partner in business ventures. Membership of the European Union (as well as OECD, WTO and other international organisations), a strategic geographical location, and numerous instruments to foster entrepreneurship make Poland one of the most attractive investment locations in Europe.

The Polish Investment and Trade Agency was established to assist foreign investors in Poland. Investors may also draw on the support of various other state institutions (e.g. the Polish Development Fund, the Polish Agency for Enterprise Development and the National Fund for Environmental Protection and Water Management).

Businesses planning to invest in high-priority sectors of the economy may obtain particular assistance in the form of government grants. These sectors include:

- automotive
- electronics
- aviation
- high-tech services
- R&D
- biotechnology.

The largest industrial sectors include foods, petroleum refining, automotive and metallurgy. Poland is also the regional leader in BPO/SSC services.

Diplomatic relations

Poland has been a member of the European Union since 2004 and a member of NATO since 1999. The Republic of Poland maintains diplomatic relations with most countries around the world, and there are about 160 accredited diplomatic missions in Poland.

Locations and contact details for diplomatic missions in Poland and Polish diplomatic missions abroad are published on the website of the Polish Ministry of Foreign Affairs (www.msz.gov.pl).

The Business Freedom Act of 2 July 2004 governs taking up, carrying on and winding up business activities in Poland, as well as the corresponding tasks of public administration bodies.

Foreigners from countries that are member states of the EU, member states of the EFTA belonging to the EEA (i.e. from Iceland, Liechtenstein and Norway) and from Switzerland may take up and carry on business activities in Poland under the same conditions as Polish nationals and in all types of corporate forms.

Individuals who are not citizens of Poland or another country mentioned above may also take up and carry on business activities in Poland under the same conditions as nationals from those countries if they, *inter alia*:

- have obtained a permit for permanent residence in Poland
- have obtained an EU-long-term residence permit
- have obtained consent to a tolerated stay or refugee status in Poland, or
- have temporary protected status in Poland.

Unless otherwise provided by treaty, other foreigners have the right to take up and operate a business only in the following corporate forms:

- limited partnership (sp.k.)
- joint-stock limited partnership (SKA)
- limited-liability company (sp. z o.o.)
- joint-stock company (SA)
- simple joint-stock company (PSA)

and may also join such undertakings and take up or acquire shares therein.

Foreign businesses may also conduct business activities in Poland in the form of a branch (*oddział*) or a representative office (*przedstawicielstwo*).

There are some restrictions applying to foreign investors in selected industries, for example in broadcast media, insurance or air transport. There are also restrictions on the purchase of land and other real estate by persons who are not nationals of EEA member states (i.e. EU member states plus Iceland, Norway and Liechtenstein).

Detailed information on investment restrictions in Poland may be found on the website of the Polish Investment and Trade Agency (http://www.paih.gov.pl/polish_law).

EU citizens

Citizens of EU member states, other EFTA member states belonging to the EEA (Iceland, Liechtenstein or Norway) and Switzerland, as well as their family members, may enter Poland and stay in it for up to 3 months without the need to register their stay, for any reason including business or work. Registration required for longer stays is a relatively simple formality. It is described in section 13, Immigration Requirements.

Poland has been part of the Schengen Area since 2007. As a result, there is no requirement to carry a travel document or another document confirming identity while travelling between Schengen Area countries. Nonetheless, carrying a passport or other identity document is recommended confirming identity for proof if needed. Citizens of EU countries which do not belong to the Schengen Area must hold a valid travel document or other document confirming their identity and citizenship in order to enter Poland.

More details on immigration requirements are provided in sections 13 and 14.

Other foreigners

Other foreigners, i.e. citizens of countries other than the EU member states, EFTA member states belonging to the EEA (Iceland, Liechtenstein and Norway) and Switzerland, who intend to enter and remain in Poland, are required to obtain an appropriate visa, but there are a number of exemptions in case of shorter stays (usually of less than 90 days), e.g. for citizens of Australia, Canada, Japan, Malaysia, Singapore, South Korea and the US (a full list is available on the website of the Ministry of Foreign Affairs).

As a rule, the visa exemption, whether applicable to EU or non-EU countries, does not apply to entry for the purpose of studying, working or engaging in another type of gainful employment (however, here too there are exceptions set by international agreements, which allow foreigners to work in Poland without a visa). Please note that in order to perform work in Poland without holding a visa one is normally required to hold a work permit (which only governs working in Poland and does not replace a document permitting a stay in Poland, such as a visa).

Ukrainian citizens

In view of the Russian invasion of Ukraine, Poland is providing all possible support to persons who are evacuating by land across the Polish-Ukrainian border. All persons whose safety is at risk will be allowed to enter the country.

Ukrainian citizens intending to cross the Polish-Ukrainian border must have a biometric passport or ordinary passport, or other travel document and visa (if required), and in the absence of these documents, any other document, proving identity—in such cases, entry can be made with the permission of the commander of the Polish Border Guard post for up to 15 days (humanitarian reasons).

Ukrainian citizens residing in Poland do not have to leave the country when their residence permits expire. Nor do they have to be concerned about the legality of their continued stay.

All information for Ukrainian citizens regarding residence in Poland is available in Ukrainian on the governmental website at (<https://www.gov.pl/web/ua>).

More details on immigration requirements are provided in sections 13 and 14.

Government

The Polish election system, as in most democracies, provides guarantees that elections will be conducted fairly and that representatives will be chosen who reflect as closely as possible the political views of the citizens. The right to vote in national elections (for members of the Sejm (lower house of Parliament) and the Senate, and the President) is held by all Polish citizens who are at least 18 years old and have not been stripped of their public rights through a legally final conviction. The right to run for elective office is subject to age restrictions. To be elected to the Sejm, the candidate must be a Polish citizen who is at least 21 on the date of the election, to the Senate 30, or to be President 35, and holding full public rights. All legally operating political parties may nominate candidates for the Parliament, and independent candidates may also run. A candidate for President of Poland must obtain the signatures of at least 100,000 Polish citizens entitled to vote. The Election Ordinance defines the methods of voting and candidacy in elections for Parliament (Sejm and Senate), President, and regional and local elections, as well as referenda. Elections to the Sejm and the Senate and regional and local offices are held every 4 years, and elections for President every 5 years. In exceptional

circumstances terms of elective office may be shortened or lengthened. The Sejm elections bear five main features:

- universality (all adult citizens are entitled to vote, without regard to sex, race, origin, education or property)
- equality (one person one vote, and all votes are equal)
- secrecy (guaranteeing fairness and protecting citizens from unlawful pressure, ballots are cast in secrecy, with only the fact of voting at the local precinct being recorded by the election commission)
- directness (voters choose a specific candidate or slate of candidates, without the intermediation of electors such as the Electoral College in the election of the US President)
- proportionality (candidates from party slates who obtain the most votes are elected to the Sejm, with the number of seats determined using the D'Hondt method).

Senate elections have three main features: (i) universality, (ii) directness and (iii) secrecy. Contrary to Sejm elections, Senate members are elected in a single-member district system.

The next parliamentary elections in Poland will be held in 2023.

The current Prime Minister of Poland is Mateusz Morawiecki. A transformation of the overall system in Poland took place following 1989, completely changing the political setup. In the past decade Poland has been governed by a coalition of Civic Platform and the Polish People's Party (2011–2015) and currently by Law & Justice (2015–).

Over the past decade, the office of President of Poland has been held by Bronisław Komorowski (2010–2015) and the incumbent, Andrzej Duda, elected in 2015 and re-elected in 2020.

Under the constitutional principle of judicial independence, a judge deciding a case is subject only to the Constitution and the laws, and must not be subjected to any external pressures, particularly from the executive branch of government. Independence means decisional autonomy, but does not mean a lack of official subordination within the hierarchical structure of the courts. It does require, however, that the correctness of a ruling be reviewed only by another court, under the procedure provided by law. According to guidelines laid down by the Constitutional Tribunal, judicial independence comprises the following elements:

- impartiality with respect to the parties to a proceeding
- independence with respect to non-judicial authorities and institutions

- self-sufficiency of the judge with respect to judicial authorities and institutions
- freedom from the influence of political factors, particularly pressure from political parties
- the judge's internal autonomy.

The principle of independence should assure stability in the functioning of the justice system notwithstanding changes that may occur within institutions of the legislative and executive branches, but criticism has been raised against the monolithic structure of the judiciary in Poland and restrictions on the independence of judges imposed by a bureaucratic system of hierarchy within the judiciary.

Under a choice of venue clause, the parties to a contract may submit existing or potential disputes under their agreement to the jurisdiction of the state court for a specific geographical location, or to an arbitration court (under an arbitration clause). Foreign courts may be chosen as well. The choice of a court does not in itself operate as a choice of the law applicable to the contract, but in practice it is typical to include a choice of law together with a choice of court. There are some restrictions on the parties' discretion in this respect. They may not alter the subject-matter jurisdiction of the court or the geographical venue of a court that has exclusive jurisdiction. In dealings with consumers, a business's imposition of the jurisdiction of the court for its own geographical location is regarded as an abusive clause.

Enforcement of judgments from other EU member states is governed by the Brussels I Regulation (Council Regulation (EC) No 44/2001 of 22 December 2000 on jurisdiction and the recognition and enforcement of judgments in civil and commercial matters), which has been in force with respect to Poland since its admission to the EU (1 May 2004). The Lugano Convention (Convention of 16 September 1988 on jurisdiction and the enforcement of judgments in civil and commercial matters) also applies in cross-border matters. Significantly, under Art. 25 of Regulation 44/2001, the court of a member state is required to rule on its own lack of jurisdiction at the court's own motion if it is requested to hear a case that lies in the exclusive jurisdiction of another member state. Thus the provisions concerning exclusive jurisdiction, set forth in Art. 22 of Regulation 44/2001, and the related case law, are of great practical significance, and, in Poland, the provisions of the Civil Procedure Code concerning international civil procedure will apply. With respect to foreign arbitration awards, the New York Convention (1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards) helps the holder of an award obtain enforcement in Poland.

Alternative dispute resolution (e.g. mediation), in the sense of out-of-court dispute resolution processes conducted by a neutral third party, other than arbitration, is covered by the European Commission Green Paper on alternative dispute resolution in civil and commercial law procedure (2002), which also applies to Poland. A court alternative dispute resolution process (e.g. court mediation) in civil and commercial matters, however, is the subject of Directive 2008/52/EC of 21 May 2008 on certain aspects of mediation in civil and commercial matters. The Polish Civil Procedure Code is generally considered to conform to that directive.

There is a widespread belief that court cases in Poland drag on for years. Unfortunately this is often the case. However, more and more often the courts will decide a case within a matter of a few months. Much depends on the complexity of the case, the procedure used, and the actions of the other party. Sometimes a party will obtain a legally final ruling only after several years of disputes before courts of various instances.

Rulings of Polish courts are enforced elsewhere in the EU under Regulation 44/2001 and are also enforced under the Lugano Convention in signatory states.

The common courts in Poland comprise district courts, regional courts and appellate courts. They have general jurisdiction over civil and criminal matters, family and guardianship cases, and labour and social insurance matters, unless reserved to the jurisdiction of other courts. Among the distinctions in subject-matter jurisdiction of the various levels of common courts, minor civil and criminal cases are considered at the first instance by the district courts (including municipal courts), and more significant cases by the regional courts. Generally matters are considered by the district courts unless jurisdiction is reserved to the regional courts; such cases include:

- monetary and other proprietary claims where the amount in dispute exceeds PLN 75,000 (with certain exceptions)
- non-proprietary claims
- copyright and patent claims
- claims under the Press Law
- claims for partition of a cooperative
- unfair competition claims
- claims to set aside corporate resolutions
- cases seeking to declare a person incompetent.

The territory of Poland is regarded as a single legal jurisdiction, which means that Polish law applies uniformly across all territorial units. Under the EU

accession treaty, EU law also applies in Poland from 1 May 2004, providing for the precedence of Community law over national law.

European Union law gives the parties freedom to choose the jurisdiction of the courts as well as the law governing a contract. If the parties fail to make such a choice, the proper court and the applicable law will be determined under the relevant EU provisions—Regulation 44/2001, which applies to civil and commercial matters other than tax, customs and administrative cases and certain civil matters (e.g. incompetence, family law, inheritance and bankruptcy). However, the law governing a contract between businesses will be determined by the Rome I Regulation (Regulation (EC) 593/2008 of 17 June 2008 on the law applicable to contractual obligations). The rules of Rome I apply directly (to contracts concluded after 17 December 2009), with priority over Polish choice of law rules and treaties between member states.

Environmental considerations

In light of the increasing environmental protection duties of the state administration, new governmental agencies were established in 2008: the General Directorate for Environmental Protection and 16 province directorates. The goal was to concentrate environmental protection tasks, which had previously been distributed among various agencies, within one specialised governmental administrative structure. The new institution assumed numerous duties previously carried out by province governors, province marshals, county executives, and other central and territorial governmental agencies that were not environmental specialists. These changes have improved the functioning of environmental impact assessments, which are crucial for investors, as well as issuance of environmental plans and programmes. The skills of the officials handling environmental issues have also increased thanks to the new administrative approach.

Like the EU law, Polish environmental regulations are extensive and complex. The first regulations that investors carrying out a project are likely to encounter are those involving environmental impact assessment. In Poland these issues are governed by the 2008 Act on Access to Information on Environment, Public Participation in Environmental Protection and Environmental Impact Assessments. The act lays down several different procedures for environmental impact assessment, first divided into strategic assessments and assessments of particular projects. For investors, the assessment of individual projects, concerning the environmental impact of a specific undertaking, is the most important, and is conducted in a procedure involving issuance of a decision

on environmental conditions. Obtaining a decision on environmental conditions is necessary in order to obtain a development permit (e.g. a zoning decision or a building permit).

It is mandatory to obtain a decision on environmental terms for a planned undertaking that could have a significant impact on the environment.

As part of the procedure to obtain such decision, it may be necessary to perform an environmental impact assessment, which includes drafting a report and conducting public consultation.

Intellectual property

- Trademarks, patents, industrial designs, utility models, geographical designations, and topography of integrated circuits are regulated by the Industrial Property Law of 30 June 2000 and the following European Union laws:
 - ◆ Council Regulation (EC) 6/2002 of 12 December 2001 on Community designs
 - ◆ Regulation (EU) 2017/1001 of 14 June 2017 on the European Union trade mark
 - ◆ Regulation (EU) 2019/787 of 17 April 2019 on the definition, description, presentation and labelling of spirit drinks, the use of the names of spirit drinks in the presentation and labelling of other foodstuffs, the protection of geographical indications for spirit drinks, the use of ethyl alcohol and distillates of agricultural origin in alcoholic beverages, and repealing Regulation (EC) No 110/2008
- Copyright

Protection of copyright in Poland is governed by the Copyright and Related Rights Act of 4 February 1994.

- Know-how

Undisclosed (confidential) know-how is protected as a trade secret under the Combating Unfair Competition Act of 16 April 1993.

- Computer programs

Protection of computer programs in Poland is governed by the Copyright and Related Rights Act of 4 February 1994.

- Databases

Protection of databases in Poland is governed by the Database Protection Act of 27 July 2001.

Poland has signed many international treaties relating to intellectual property which include the following:

- Paris Convention for the Protection of Intellectual Property (20 March 1883)
- Convention Establishing the World Intellectual Property Organisation (Stockholm, 14 July 1967)
- Marrakesh Agreement Establishing the World Trade Organisation (15 April 1994)
- Nice Agreement Concerning the International Classification of Goods and Services for the Purposes of the Registration of Marks (15 June 1957)
- Madrid Agreement Concerning the International Registration of Marks (14 April 1891)
- Protocol Relating to the Madrid Agreement Concerning the International Registration of Marks (Madrid, 27 June 1989)
- European Patent Convention (Munich, 5 October 1973)
- Berne Convention for the Protection of Literary and Artistic Works (9 September 1886)
- Universal Copyright Convention (Geneva, 6 September 1952)
- WIPO Copyright Treaty (Geneva, 20 December 1996)
- International Convention for the Protection of Performers, Producers of Phonograms and Broadcasting Organisations (Rome, 26 October 1961)
- WIPO Performances and Phonograms Treaty (Geneva, 20 December 1996)
- Singapore Treaty on the Law of Trademarks (27 March 2006)

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- Hague Agreement concerning the International Registration of Industrial Designs (Geneva, 2 July 1999)

The Polish Patent Office protects intellectual property, which it registers. The registers are publicly available. The exception is copyright and sui generis rights to databases, because a copyrightable work and databases are protected without having to be registered.

Registered EU trademarks as well as registered and unregistered Community designs are valid in Poland.

In Poland intellectual property rights can be transferred or licensed, irrespective of whether they are registered.

Licences for industrial property (e.g. patents and trademarks) are governed by the Industrial Property Law. A licence must be in writing to be valid.

In the instances listed below, the Polish Patent Office can grant a compulsory licence to a person to use a patented invention:

- when necessary to prevent or eliminate a threat to the security of the state, in particular defence, public order, protection of human life and health, and environmental protection
- when a patent is being abused
- when the owner of a patent that has earlier priority (a prior patent) refuses to consent to a licence and, thereby, prevents satisfaction of the needs of the national market through use of the patented invention (a dependent patent) the use of which falls within the prior patent; the owner of the prior patent can then demand a licence to use the dependent patent (a mutual licence).

The user under a compulsory licence must pay the owner a licence fee.

Licences for copyright are governed by the Copyright and Related Rights Act of 4 February 1994. To be valid, such licences must specify the areas of exploitation of the work. Only an exclusive licence must be in writing to be valid.

Licences between foreign companies and wholly owned Polish subsidiaries usually include a licence to use trademarks, trade names, and copyright owned by the foreign company.

Trade secrets are protected under the Combating Unfair Competition Act of 16 April 1993. A trade secret is information of commercial value not generally known or accessible to others. A trade secret can be anything that has

value for a business; for example, technical, technological or organisational information, such as contractor details, pricing policy, production processes, or recipes. The owner of a trade secret must act reasonably to keep the information secret.

A major change in intellectual property law is that from July 2020 specialised intellectual property courts operate and changed rules of civil procedure apply to IP matters (copyright and derivative rights, industrial property, other intangible property, unfair competition, and certain rights to personality).

Courts of first instance are in Warsaw, Gdańsk, Lublin, Poznań, and Katowice; appellate courts are in Warsaw and Poznań. Intellectual property matters of a technical nature, inter alia involving computer programs, are heard exclusively by the Warsaw Regional Court.

The procedure permits an application to be made for an interim injunction.

The procedure also permits (i) preservation of evidence held by a defendant or a third party, (ii) compelling a defendant to disclose or surrender evidence, (iii) requesting a defendant or a third party to provide information on the supply and distribution networks of goods or services.

The procedure also permits, in essence, an application for a declaration that an existing or future act does not infringe a patent, a patent supplementary protection right, a trademark, or a registered design. A defendant disputing the validity of a trademark or design on which a statement of claim is based can file a counterclaim that includes a request for invalidation of that trademark or design or a declaration that the right to that trademark has expired.

Parties to most intellectual property proceedings must be represented by an advocate, attorney-at-law, or patent attorney.

The jurisprudence of IP courts is not yet unified. But it is expected that the IP courts and rules on IP proceedings will harmonise jurisprudence and expedite proceedings in IP matters.

Further amendments of civil procedure that could affect IP proceedings and amendment of Industrial Property Law and Copyright and Related Rights Act are being discussed or are in preparation.

3. State aid

Under European Union law, state aid means an advantage in any form whatsoever conferred on a selective basis to undertakings by national public authorities, to the extent that it affects trade between EU member states. Therefore, subsidies granted to private individuals or general measures open to all enterprises do not constitute state aid. The EU generally prohibits state aid. However, EU law also defines circumstances when government intervention is necessary for a well-functioning and equitable economy. Therefore, EU law leaves room for a number of policy objectives with which aid from a member state may be considered compatible.

Admissibility of state aid

The application of exemptions to the general prohibition of state aid rests exclusively with the European Commission. The fundamental element of the supervision exercised by the Commission is the notification procedure, which member states must follow except in certain instances. It is only after approval by the Commission that an aid measure may be implemented. The Commission also has the power to order recovery of incompatible state aid.

Types of state aid

Regional aid

Such aid is targeted to regions where per capita GDP is less than 75% of average GDP per capita in the EU, whereby 14 out of 16 provinces in Poland are currently considered eligible. Financing is available to all sectors, except for agriculture, fishing, mining, transport, automotive, shipbuilding, steel, and synthetic fibres. "Aid intensity" is the level of aid available under a given scheme and is expressed as a percentage of the eligible costs. "Eligible costs" are expenditures listed under specific measures which constitute the basis for calculating available aid. Aid is being granted at most at 50% (in 4 provinces), with lower levels being 35% (in 8 provinces), 25% (in 3 provinces) and 10% (with respect to Masovia Province, although this province has 6 sub-regions with different maximum aid intensities), except for projects where eligible expenditures exceed EUR 50 million, in which case the state aid intensity follows a specific formula.

Horizontal aid

Focused on selected goals, irrespective of geographical region. The principal types of expenditure financed from the horizontal aid scheme are ad hoc aid to businesses, support for SMEs, aid for employment and new jobs, innovation and R&D projects, and environmental investments.

Sectoral aid

Geared to supporting specific sectors, connected with the restructuring of whole areas of the economy and individual companies from particular industries.

Restructuring and rescue aid for firms in difficulty

Usually available in extraordinary circumstances, on condition that the beneficiary provides a credible restructuring plan demonstrating that if it receives the aid, it will be able to restore long-term viability in the foreseeable future.

De minimis aid

Granted to a single beneficiary, not exceeding EUR 200,000 over three consecutive years (unless exceptional thresholds apply, e.g. for road transport or services of general economic interest). This type of state aid does not have to be notified to the European Commission.

Principal state aid measures available in Poland

Polish Investment Zone regime

- 1 A decision granting support allows an investor to benefit from a corporate income tax exemption for income from operations within the scope of a decision granting support up to 15 years. An investment may be situated anywhere in Poland. However, an investor operating under a decision granting support must meet certain quantitative and qualitative criteria, where the quantitative criteria depend on the unemployment rate in the county in which the investment is to be implemented (the higher the unemployment rate, the lower the required costs) and size of the enterprise. Preference is also granted to businesses conducting research and development and those in the business services sector. As a consequence, the minimum amount of eligible costs ranges from PLN 200,000 to PLN 100 million. Eligible costs of a new investment are:

- 1 land acquisition cost, cost related to its purchase, development or modernisation of fixed assets (e.g. machines), cost related to the acquisition of intangible assets (computer programs, licenses, certificates, etc.), or (to be chosen by the applicant)
- 2 two-year labour costs of newly hired employees.

Tax break for R&D activity

A bonus in a form of an additional setoff of eligible costs against taxable income in the amount of (i) 30% of salaries of employees engaged in R&D activities, (ii) 20% (SMEs) or 10% (large taxpayers) of other related expenses regarding R&D activities (including depreciation). The costs of R&D activity have to be shown separately in the accounts. Eligible costs are listed in the tax return with deduction of an additional 50% of such expenditures, while maintaining the right to depreciate the full value of the investment. This relief is unavailable for investors operating under a special economic zone permit or permit to operate in the Polish Investment Zone. There are restrictions with respect to the requirement for novelty and the requirement to use the technology and not sell it over a defined period.

Real estate tax exemption

In 2023, the maximum applicable rates for commercial premises are PLN 28.78 per m² of a building's usable area and PLN 1.16 per m² of land. The actual rates and exemptions are established by local government authorities. Local councils typically provide RET exemptions conditioned on certain levels of investment expenditures in the council's territory, the creation of certain numbers of jobs and/or operating under a SEZ permit. In some areas, the maximum amount of this aid is limited by the *de minimis* threshold of EUR 200,000 in three consecutive years. However, local councils are prepared to introduce new measures to meet the needs of new investors, and it is not unusual for the incentive to be extended beyond the *de minimis* threshold.

Infrastructure investments

Depending on the investment scheme, this might involve a state aid component, but may also become a non-state aid investment incentive. An infrastructure investment may involve, in particular, improvements in road infrastructure, site development and the like. Arrangements in this regard are usually negotiated with city councils or other local stakeholders.

Investment packages and other measures

Arranged on an individual basis and involving mixed state aid and non-state aid incentives, such as the forms mentioned above. Investment incentives may also involve, on a standalone basis, (i) scholarships – usually granted by city councils, (ii) refund of costs of equipment or refitting of workplaces, (iii) refunds of training costs, and so on.

Refund for eco-friendly investments

Available upon application to the National Fund for Environmental Protection and Water Management and regional funds. The actual scope of aid depends on the given aid scheme. The investor must commit to invest in eco-friendly solutions.

Government grants

Direct subsidies, granted under plans adopted individually for a particular project by the Polish government for creating employment or capital expenditures. Such subsidies may be negotiated with the Polish government.

EU funds

The actual aid varies significantly and depends on the project. It is granted by appropriate government agencies in a formal procedure. The availability usually depends on the level of the investor's commitment and innovativeness, as well as the industry involved. In the 2021–2027 financial perspective, there should be a significant amount of EU funds available to be distributed to recipients in Poland.

4. Financial facilities

Banking/financial facilities

Financial system

The Polish financial system is governed by various laws, including the Banking Law, the Payment Services Act, the Insurance Activity Act, the Investment Funds Act, and the Trading in Financial Instruments Act.

Supervision over the financial market is governed by the Supervision of the Financial Market Act and the Supervision of the Capital Market Act, under which the Polish Financial Supervision Authority (KNF) is established as the supervisory body. KNF is tasked with supervision of banking, capital markets, insurance, pension schemes and electronic money institutions. It also issues permits required by law to conduct regulated financial activity, e.g. banking, brokerage and insurance activity. The aim of financial market supervision is to ensure the smooth, stable, secure and transparent operation of the market, to promote confidence in the financial market, and to ensure that the interests of market participants are protected. KNF's activity is overseen by the Prime Minister.

The banking system in Poland comprises the central bank (the National Bank of Poland) and commercial, retail and investment banks.

Foreign banks may operate in Poland by establishing a bank in Poland, opening a branch office, or, for cross-border activity, by notification to KNF if they are licensed in another EU member state.

In addition to banks, the following types of financial institutions also operate in Poland: brokerage houses, insurance companies, leasing companies, factoring companies and collection agencies, payment service providers, pension funds, investment funds, and firms selling financial products (insurance and investment funds).

Lending

Although the general rule is that lending activities do not require any special licensing, Polish law distinguishes "loans" and "credit." Credit and some other activities which are ancillary to lending may only be conducted by entities organised as banks or co-operative credit unions (e.g. accepting deposits, maintaining bank accounts, granting bank guarantees, and conducting bank cash settlements) or investment firms (e.g. buying or selling financial instruments for their own account, managing portfolios which include one or more financial instruments, providing investment advice, offering financial instruments, etc).

Banks and investment firms must comply with specific organisational requirements and obtain a licence from KNF for the given type of activity.

Investors may take out loans from Polish banks. However, banks are subject to certain restrictions and limitations (such as checking the borrower's

creditworthiness, and obligatory establishment of security in case of lack of creditworthiness) which arise from the law or are issued by KNF in the form of binding procedures or recommendations.

Restrictions on interest rates apply in Poland. The highest admissible interest rate depends on the reference rate published by the National Bank of Poland (the highest admissible interest rate equals the sum of the reference rate and 3.5% multiplied by 2 (as of today, 7.2%)). This restriction applies regardless of the law governing the loan agreement.

New regulations on interest and non-interest expenses of loans have recently been introduced into Polish law.

In a loan agreement concluded with a natural person and not directly related to that person's business or professional activity, the total non-interest expenses during the entire repayment period of the loan cannot exceed 25% of the total loan amount. If non-interest expenses exceed this amount, then maximum statutory non-interest expenses are due. This also applies if foreign law is chosen to govern a loan agreement.

Opening a bank account

Generally, a foreign investor is not required to open a bank account in Poland to do business here. However, if a business operating in Poland conducts transactions regarding certain "sensitive" goods or services or transactions where the gross value of the entire invoice exceeds PLN 15,000 (subject to mandatory split payment), it must hold a bank account in Polish currency, maintained by a Polish bank, for settlements with the tax office and contracting parties, especially if such parties are Polish taxpayers. Such an account is subject to notification to the relevant tax office and will, therefore, appear on the "White List" of VAT payers. Certain restrictions on the use of a bank account, such as a block on funds, may arise under money laundering regulations or if the account is included in enforcement proceedings.

Capital market

The Warsaw Stock Exchange, which has been active since 1991, plays a pivotal role in stimulating the financial market. The WSE lists 417 companies, including 373 Polish companies, with an overall capitalisation of PLN 608,275 million, and 44 foreign companies, with an overall capitalization of PLN 669,142 million (February 2023).

Securities are listed on the main market of the WSE or on the alternative market, NewConnect, which is also operated by the WSE. Debt securities are listed on the WSE's Catalyst and BondSpot markets. Commodity markets are listed on the Polish Power Exchange (POLPX), which provides a trading platform for major power industry players.

Public trading in equity and debt securities may take place through sale on the primary market or in secondary trading.

Trading of securities listed on the Warsaw Stock Exchange requires a monetary and securities account for settling transactions, maintained by a brokerage or custodian authorised to conduct such activity in Poland.

To open the above accounts, an investor must present identification for individuals, a passport or identity card, and for businesses, corporate documents demonstrating the right to act for the business. Brokerage or custodian internal regulations may also indicate specific types of documents necessary to open an account (which can also be opened by internet or mail).

A public offering of securities to more than 149 persons or to unspecified addressees, or the admission of securities to trading on the Warsaw Stock Exchange, requires preparation of an information memorandum drafted in the form of a uniform document in Polish together with an application for approval by KNE. Polish law provides for situations where preparation of a prospectus is not necessary, e.g. when an offering is addressed exclusively to qualified investors or in other cases specified in Art. 1(4)(a)–(j) of Regulation (EU) 2017/1129 of 14 June 2017.

Should the offering of foreign securities to Polish investors be considered a public offering, the offering has to be entered in the relevant register kept by KNE. Registration is a two-stage procedure and has to be completed online. The passport rule under the Prospectus Directive (2003/71/EC) is part of Polish law. It provides that when shares are to be admitted to trading on regulated markets in several member states, the prospectus approved in the home state is valid for admission of the shares to trading in other EU member states.

The trading day at the Warsaw Stock Exchange runs from 9:00 am through 5:00 pm, Monday through Friday.

There is a notification obligation with regard to an acquisition or sale of a number of shares of public companies. Any investor who:

- acquires or owns more than 5%, 10%, 15%, 20%, 25%, 33%, 33-1/3%, 50%, 75% or 90% of the total number of votes at the general meeting of shareholders of a public company, or
- holds at least 5%, 10%, 15%, 20%, 25%, 33%, 33-1/3%, 50%, 75% or 90% of the total number of votes at the general meeting and, as a result of a reduction in such share, holds 5%, 10%, 15%, 20%, 25%, 33%, 33-1/3%, 50%, 75%, 90% or less, respectively, of the total number of votes

must notify KMF and the company immediately, but not later than 4 or 6 days after the change in interest in the total number of votes or the date of acknowledgement that such a change occurred.

The same notification obligation arises on an acquisition or sale of a number of shares which brings the number of previously held shares over:

- the 10% threshold by at least 2% of the total number of votes at the general meeting in respect to a company admitted to trading of its shares on the official stock exchange or by 5% if the shares are admitted on a stock exchange other than the official one, or
- the 33% threshold by at least 1% of the total number of votes at the general meeting.

If the threshold of 50% of the total number of votes in the public company is exceeded, the shareholder or entity who indirectly acquired shares is obligated to announce a takeover bid within 3 months. This obligation does not arise in the case when the share of a shareholder is decreased to no more than 50% of the total number of votes as a result of an increase of share capital, amendment to the articles of association of the public company or expiry of the preference with respect to their shares, within 3 months.

5. Exchange controls

Business transactions with nationals, residents or non-residents

In Poland, foreign exchange matters are governed by the Foreign Exchange Law.

The law defines a resident as *inter alia*:

- an individual with a permanent place of residence in Poland
- an entity with its place of registration in Poland

- a branch, representative office or company established in Poland by a non-resident.

A non-resident is:

- an individual with a permanent place of residence abroad
- an entity with its place of registration abroad
- a branch, representative office or company located abroad, set up by a resident.

The law distinguishes between non-residents from EU countries and non-residents from “third countries,” meaning countries that are not only outside the EU but also outside the European Economic Area and OECD. Non-residents from the EU (as well as EEA and OECD) are treated with priority, and currency transactions in their case are subject to much more lenient restrictions than currency transactions with non-residents from third countries. Non-residents from countries with which Poland has entered into tax treaties are treated similarly to those from the EU, and enjoy similar latitude.

Foreign exchange regulations provide certain requirements to submit reports to the National Bank of Poland. These requirements apply to residents conducting transactions with non-residents. The reporting requirements apply if total assets or liabilities connected to foreign exchange transactions at the end of the year are at least PLN 3 million or between PLN 10 million and PLN 300 million (or PLN 7 million in the case of individuals). Furthermore, a resident should fulfil reporting requirements in the case of holding at least 10% of the votes or shares in foreign entities, debt securities or money-market instruments issued on a foreign market, receivables from non-residents or payables to non-residents, money-market instruments, derivatives and other securities issued by non-residents, credit and loans received from foreigners.

The Foreign Exchange Law does not provide for restrictions in granting loans between residents and non-residents. However, residents with long-term loans from non-residents or long-term liabilities to non-residents under finance leasing agreements, with a total exceeding PLN 3 million as of the end of a quarter, are required to file quarterly reports with the National Bank of Poland on the state of the liabilities.

Investment controls

The Foreign Exchange Law is generally based on the principle of free foreign trade, but for certain activities it is still necessary to obtain an individual foreign exchange permit, issued by the president of the National Bank of Poland upon written application, including the rationale for the activity.

Non-residents from third countries must obtain a permit to sell short-term debt securities (below one year) or claims in Poland, unless they acquired them in Poland.

Residents need a foreign exchange permit:

- to open accounts in banks and branches of banks located in third countries, either directly or through intermediaries, with certain exceptions
- to acquire abroad:
 - ◊ shares in companies registered in third countries
 - ◊ participation units in collective investment funds registered in third countries
 - ◊ debt securities issued by non-residents from third countries
 - ◊ to sell short-term debt securities (below one year) or claims in third countries.

Money transfer

Daily exchange rates for foreign currency and other foreign exchange units are announced by the National Bank of Poland. However, banks or bureaux de change are free to set their own exchange rates.

Foreign investors are generally entitled to transfer all of their profits, and capital gains may be transferred abroad without the need to obtain special permission.

Residents need a foreign exchange permit to move Polish or foreign currency to third countries in order to start or develop business activities in those countries, with the exception of such activities as direct services, performance of existing contracts, or promotion and advertising activities conducted by the resident domestically.

Residents and non-residents crossing the state border are required to declare to customs officials or the Border Guards the import or export of gold, platinum, or Polish or foreign currency worth more than EUR 10,000. In the

case of money transfers abroad or payments within Poland related to foreign exchange, residents and non-residents are required to conduct such transactions via banks if the value of the transfer or payment exceeds EUR 15,000.

There are certain restrictions on purchase of real estate (outright ownership or perpetual usufruct) in Poland by foreign nationals. Similar rules apply to acquisition of shares in companies registered in Poland that hold real estate. In both cases there is a distinction between foreign nationals who are citizens of a European Economic Area member state and those who are not.

A foreign national who is not a citizen of an EEA member state is required to obtain a permit from the Minister of the Interior to purchase real estate in Poland. In the case of shares, a permit is required only if as a result of the acquisition a non-resident will gain control of a Polish company that holds real estate.

Foreign nationals who are citizens of an EEA member state or conducting business in an EEA member state are in most cases not required to obtain a permit.

6. Import/export regulations

Customs regulations

Poland is a founding member of the WTO, a party to GATT (since 1967) and a member of the OECD (since 1996). Following accession to the European Union, since 1 May 2004 Poland has also been a member of the customs union formed by all the EU member states. Consequently, customs duties may only be levied in Poland in accordance with EU customs law, including the EU Customs Code and the Common Customs Tariff. EU customs laws are directly applicable and effective in Poland, which implies that national customs authorities and courts are required to set aside any conflicting national regulation or practice. The Polish Customs Law is only supplementary.

It is thus assumed that the customs rules and the rates of customs duties applied by Polish authorities are identical to those which would apply if the goods were traded in any other EU member state. In addition, common rules for external trade are established or negotiated by the EU on behalf of all the member states. Nonetheless, in practice the same goods may occasionally be

classified differently depending on the member state of entry. This may lead to distorted application of the customs duties.

As far as internal trade within the EU is concerned, any goods already admitted to trade within the EU may move freely between any member states, without any customs duties or other charges with equivalent effect. Moreover, they may usually cross the border between EU member states without being subject to any regular inspections or controls.

Whenever any quotas are imposed by EU law on specific products, import licences are issued by the authorities of the relevant member states. The procedure governing administration of quotas is laid down in Council Regulation (EC) No 717/2008 of 17 July 2008 establishing a Community procedure for administering quantitative quotas, as amended.

A distinction is made between tariff barriers (EU customs tariffs, tariff quotas, tariff ceilings, and total or partial suspension of duty) and non-tariff barriers (monitoring of imports and exports, quantitative quotas, import and export bans, and technical bans).

The basis for calculating duty is the customs value of the goods, which is the price paid or due for the goods plus transport and insurance costs incurred up to the EU border, if not included in the cost of the goods. In certain instances the customs authorities may estimate the customs value.

Goods may be submitted to customs clearance directly by the trader or its representatives, such as customs agencies, shippers or carriers represented via customs agents. In practice, customs agencies typically handle the relevant importation formalities.

Goods arriving in or leaving the EU may be subject to various customs procedures which, if applied properly, may considerably mitigate exposure to customs duties, improve cash flow or reduce formalities. For instance, goods imported into the EU to be processed or developed may be subject to the inward processing procedure, in which case the customs duties would only be imposed on the added value arising while the goods are processed within the EU. Parallel rules would apply to outward processing, when goods are being shipped outside the EU for further manufacturing purposes. In other cases, goods may be brought to the EU for temporary use without triggering any customs duties if they leave the EU customs territory in time. Moreover, EU and international customs laws often exempt or mitigate customs levies applicable to goods of particular kinds (e.g. high tech) or originating from

specific regions or countries (e.g. under the recent trade agreement with South Korea).

Binding Tariff Information

The EU has created the Binding Tariff Information (BTI) system as a tool to assist economic operators in obtaining the correct tariff classification for goods they intend to import or export. A BTI is issued on request by the customs authorities of the member states. It is valid throughout the EU, regardless of the member state that issued it. In Poland, a BTI is issued in the form of an administrative decision by the director of the Warsaw Revenue Administration Chamber.

The main benefit to the holder is legal certainty with regard to tariff classification. A BTI is generally valid for 6 years. However, in certain cases (e.g. publication of a classification regulation, a change in interpretation of nomenclature at the international level, or any other possibility laid down by the provisions for implementation of the Customs Code), a BTI may cease to be valid.

In such circumstances, the economic operator may continue applying the BTI for a further 6 months, if specific supplies have already been contracted under the BTI.

All BTIs issued by the national customs authorities are introduced into the European Binding Tariff Information (EBTI) database run by the European Commission.

National procedural aspects

In Poland customs proceedings (including import and export clearance) are carried out by tax and customs offices. Decisions of the customs offices are appealable to revenue administration chambers within 14 days from receipt (rulings, usually addressing procedural issues, within 7 days). Complaints against decisions or rulings of customs chambers may be filed with the administrative court within 30 days from receipt.

Jurisdiction of EU courts

EU courts hold jurisdiction over customs issues throughout the EU. The Court of Justice issues preliminary rulings on customs law upon references from national courts. Moreover, EU courts review acts of the European Commission, and may annul them on substantive or procedural grounds..

Interplay between EU and international customs and trade law

Bilateral trade agreements with third countries are negotiated by the European Union on behalf of all EU member states.

International customs and trade law (e.g. adopted by the World Customs Organisation or the World Trade Organisation) has no direct application in the EU customs area. It is implemented through EU regulations which apply directly in the EU member state.

As the EU tariffs are based on WCO standards, WCO guidelines may be used for interpretation.

In case of a dispute between the EU and third countries, various customs fora (Customs Code Committee, WTO panel and similar bodies within the WCO) provide dispute resolution and interpretation.

Exports

Export restrictions are intended to prevent export of rare goods, protect human life and health, promote international peace, and prevent trade in illegal goods and other unforeseeable actions. The instruments that may be applied to further this policy, as need be, include export bans, licences and permits, and monitoring of exported goods.

Export permits may be necessary for a firm to sell its products on the market of a third country. Export permits are issued by the Department of Sensitive Goods Circulation and Technical Safety at the Ministry of Development. Export bans are adopted on the EU level and include a list of countries and organisations covered.

Export restrictions also apply to export of strategic goods and technologies (an individual export permit) as well as dual-use items. In Poland, the issue of dual-use items is regulated by the Act on Commercial Manufacture and Sale

of Explosives, Weapons, Ammunition and Technologies for Military or Police Use of 22 June 2001 and by the Act on Foreign Trade in Goods, Technologies and Services of Strategic Importance for National Security and the Maintenance of International Peace and Security of 29 November 2000. Moreover, sales of dual-use items outside Poland are usually carried out on the basis of the general EU permit established by Council Regulation (EU) 2021/821 of 20 May 2021 setting up a Union regime for the control of exports, brokering, technical assistance, transit and transfer of dual-use items, or permits issued by the Minister of Development. In contrast to exports, no permits are required for imports of those products to Poland.

Export duties are applied rarely, chiefly on raw materials in order to encourage processing within Poland. Export duties increase the exporter's costs.

Due to sanctions imposed by the EU on the Russian Federation resulting from its aggression in Ukraine, many goods which may potentially strengthen Russia's position cannot be exported to Russia pursuant to Council Regulation (EU) 833/2014 of 31 July 2014 concerning restrictive measures in view of Russia's actions destabilising the situation in Ukraine. Such goods intended for export ban include dual-use goods and technology, goods and technology which might contribute to Russia's military and technological enhancement, and goods and technology intended for maritime safety or for use in aviation or the space industry. Moreover, economic sanctions also cover territories under Russian control such as Crimea and Sevastopol pursuant to Annex III to Council Regulation (EU) 825/2014 of 30 July 2014, which includes a list of key equipment and technology covered by the export ban to these territories, and the non-government controlled areas of Ukraine in the oblasts of Donetsk, Kherson, Luhansk and Zaporizhzhia pursuant to Annex II to Council Regulation (EU) 2022/263 of 23 February 2022 concerning restrictive measures in response to the illegal recognition, occupation or annexation by the Russian Federation of certain non-government controlled areas of Ukraine.

Similar restrictions apply to the export of some goods to Belarus, as provided in Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine.

Imports

Admission of certain classes of goods from third countries requires that the importer hold an import permit (and present it upon clearance) issued by the competent authority of an EU member state (in Poland, the Minister of Economy).

Import permits are required for import of, inter alia, industrial goods that are subject to quotas, as well as certain classes of goods subject to automatic registration.

Issuance of such permits may be conditional upon payment of a deposit (in the form of cash or a guarantee).

The deposit may be paid for the applicant by a third party. It is also permissible to transfer a deposit from a licence that has been returned by the importer to a new application. If the licence is used in an amount no greater than 5%, the deposit is forfeited in its entirety to the State Treasury; likewise in the case of use of the licence other than for its intended use, or failure to return the licence within two months after the end of its period of validity. The manner in which the deposit is paid and returned is set forth in the regulation of the Minister of Economy of 18 May 2004.

Furthermore, import of strategic goods requires an individual import permit. Applications for import licences in Poland are filed with the Department of Sensitive Goods Circulation and Technical Safety at the Ministry of Development.

Currently, due to sanctions imposed by the EU on the Russian Federation, Regulation 833/2014 involves several lists of various products banned from import from Russia to EU states, in particular goods which generate significant revenues for Russia thereby enabling its actions destabilising the situation in Ukraine.

Moreover, goods of Crimea and Sevastopol origin, and not recognised as Ukrainian, cannot be imported to Poland pursuant to Council Regulation (EU) No 825/2014 of 30 July 2014 amending Regulation (EU) No 692/2014 concerning restrictions on the import into the Union of goods originating in Crimea or Sevastopol, in response to the illegal annexation of Crimea and Sevastopol.

Similar restrictions apply to the import of some goods from Belarus, as provided in Council Regulation (EC) No 765/2006 of 18 May 2006 concerning restrictive measures in view of the situation in Belarus and the involvement of Belarus in the Russian aggression against Ukraine.

The Polish system also prohibits the import of coal from Russia or Belarus pursuant to the Act on Special Solutions to Prevent Support for Aggression against Ukraine and to Protect National Security of 13 April 2022.

7. Structures for doing business

Governmental participation

The Polish state (via the State Treasury) holds all or part of the shares in certain companies and enterprises. There are also state legal persons and state enterprises that conduct business activity. Since the transformation of the Polish political and economic system began in 1989, some of them underwent commercialisation (i.e., transformation from state entities into companies with shares) and privatisation (with all or part of the shares then being sold to private investors). Generally, the state no longer takes any part in newly created enterprises. One exception is when the public-private partnership structure is used, for infrastructure projects and other ventures. These are governed by a special law, the Public-Private Partnership Act, because state participation in business activity must always be governed by statute.

The nature of the state's participation in ownership or functioning of a given economic entity depends on the applicable statutes and the purposes to be furthered by the given undertaking, as laid down by the law. State participation in a given venture or company does not affect the investor's liability, which continues to be based on general rules, e.g. under contract or tort principles.

With respect to restrictions on capitalisation, in the sense of a minimum or maximum share the state may hold in a given venture or entity, there are a set of companies in sensitive areas in which the state has special entitlements not enjoyed by private owners. These are laid down by the Act on Special Rights of the Minister of State Assets and Exercise Thereof in Certain Companies or Capital Groups Operating in the Electricity, Oil and Gas Sectors.

In addition to the above, it is worth noting that under the Special Economic Zones Act the government created a number of special zones where businesses benefit from a number of incentives, including certain tax privileges. Businesses are allowed to operate in an SEZ upon receiving a licence from the minister for economy.

Joint ventures

A joint venture, in the sense of economic cooperation by business entities to achieve a specific economic purpose, may involve conclusion of an agreement between the businesses in which they undertake to perform specific actions to achieve their common purpose. Under Polish law, joint venture agreements are treated as contracts of an unspecified type, which are governed by the general provisions of the Civil Code on contract formation and performance. In certain instances, depending on the specific contractual provisions, a joint venture agreement may be treated like an ordinary partnership agreement, in which case the relevant provisions of the Civil Code will apply accordingly.

A joint venture may also take the form of a joint-venture company, in which businesses cooperate by jointly forming a new entity, typically in the form of a company. Then the operations of the JVC will be governed by the relevant provisions of the Civil Code, the Commercial Companies Code, and other laws relevant to the specific corporate form in which the JVC operates.

It is important to consider the ramifications under antitrust law and other aspects of competition law when entering into a joint venture.

If a joint venture consists of businesses entering into a joint venture agreement, it is not subject to any specific form of registration or particular fees. The businesses involved will continue to bear unlimited liability to third parties for obligations incurred in carrying out the joint venture. As against one another, the parties to the joint venture agreement may divide or share the risks based on their business arrangements, but those arrangements will not be binding on third parties.

If a joint venture company is established, it must be registered in accordance with the rules applicable to the specific corporate form used for the JVC. For more specific information, including relevant fees, formalities, and principles of liability for the company's obligations, please refer to the sections of this guide relevant to the corporate form used.

There are no specific restrictions on capitalisation of joint ventures, but general rules concerning capital requirements may come into play, for example thin capitalisation rules, as discussed elsewhere in this guide.

Companies

In Poland there are three types of companies (corporations): the limited-liability company (*spółka z ograniczoną odpowiedzialnością*, abbreviation sp. z o.o.), the joint-stock company (*spółka akcyjna*, SA), and the simple stock company (*prosta spółka akcyjna*, PSA). In all forms the shareholders are not personally liable for the company's debts, but are at risk only for the value paid for the shares.

Limited-liability company

The limited-liability company is the typical form for a closely held (private) company, with shareholders who are limited in number and closely involved in oversight of the company's affairs. A limited-liability company is a convenient legal form for wholly owned subsidiaries of foreign companies (except in certain areas, such as banking or insurance, where a joint-stock company is required). It may be established by one or more persons for any lawful purpose, unless otherwise provided by law. A limited-liability company may not be established solely by another single-shareholder limited-liability company, however.

The share capital of the company must be at least PLN 5,000, divided into shares of equal or unequal par value. The minimum par value per share is PLN 50.

A limited-liability company is established as follows:

The shareholders sign articles of association in the form of a notarial deed. Upon conclusion of the articles of association, a limited-liability company in organisation is established. The company in organisation is represented by the management board or a proxy appointed by unanimous resolution of the shareholders. The company in organisation may acquire property in its own name, including real estate and other tangibles, incur liabilities, and sue or be sued. The phrase *w organizacji* (in organisation) is appended to the end of the name.

Establishment of the company requires:

- conclusion of the articles of association in the form of a notarial deed
- payment by the shareholders of their contributions to cover the entire share capital, along with any premium, if they take up shares for a price higher than the par value
- appointment of the management board
- appointment of the supervisory board or audit committee, if required by law or the articles of association
- entry in the National Court Register.

It is also possible to conclude the articles of association in electronic form with certified electronic signatures. However, in practice this e-form does not seem to be very popular and conclusion of the articles of association of a limited-liability company in the notarial form is still the most common. This is mainly connected with two factors:

- the limited options for articles of association provisions that may be chosen in the electronic system
- lack of means necessary to establish the company via the electronic system (foreigners incorporating such companies are required to possess qualified electronic signatures issued by a certified provider based in Poland).

The management board applies to the registry court for the seat of the company to enter the company in the National Court Register. All members of the management board sign the application to register the company.

Upon entry in the National Court Register, the company obtains legal personality and becomes duly incorporated, ceases to be in organisation, and assumes the rights and obligations of the company in organisation.

Upon entry in the National Court Register, the company obtains income tax and statistical registration. The appropriate numbers are entered in the company's register ex officio.

The company files separately for registration for VAT and/or EU VAT and social insurance, if it plans to hire any staff. It is also possible to obtain income tax and statistical registration before filing the application with the National Court Register, to accelerate the process of obtaining VAT and/or EU VAT registration.

Separately, within 14 days from the company registration, the filing of the company's beneficial owners must be made in the Polish Central Register of Beneficial Owners. Failure to submit the relevant information may be subject to a fine up to PLN 1,000,000.

For the purpose of later activities, some or all company management board members should be provided with e-signatures compliant with Polish requirements.

Joint-stock company

A joint-stock company is the typical form for a company that may have numerous or diverse shareholders, and is the required form for public companies and for certain types of business (such as banks and insurance companies). It may be established by one or more persons, but not solely by a single-shareholder limited-liability company.

The share capital of a joint-stock company must be at least PLN 100,000, divided into shares of equal par value. The par value per share may not be below 1 grosz (PLN 0.01).

A joint-stock company is established as follows:

The founders sign the statute of the company, in the form of a notarial deed. The company is established when all the shares are taken up. Upon formation a joint-stock company “in organisation” is created. Until appointment of the management board, the company in organisation is represented by all of the founders together or by a proxy appointed by unanimous resolution of the founders.

The company in organisation may acquire property in its own name, including real estate and other tangibles, incur liabilities, and sue or be sued. The phrase *w organizacji* (in organisation) is appended to the end of the name.

Establishment of a joint-stock company requires:

- formation of the company, including signing of the statute by the founders and taking up all the shares
- payment by the shareholders of contributions to cover the share capital (although the share capital may be covered up to at least one-fourth of its value prior to registration, subject to specific rules for in-kind contributions)
- appointment of the management board and supervisory board
- entry in the National Court Register.

Shares in a joint-stock company will be in dematerialised form. The establishment of a joint-stock company will require an entity to be chosen to maintain the register of shares and an agreement to be concluded to maintain the register.

Joint-stock companies are required to maintain a website on which communications to shareholders will be posted.

The management board files an application with the registry court for the seat of the company to enter the company in the National Court Register. All members of the management board sign the application to register the company.

Upon entry in the National Court Register, the company obtains income tax and statistical registration. The appropriate numbers are entered into the company's register ex officio.

The company files separately for VAT and/or EU VAT and social insurance registration, if it plans to hire any staff. It is also possible to obtain income tax and statistical registration before filing the application with the National Court Register, to accelerate the process of obtaining VAT and/or EU VAT registration.

Filing of the company's beneficial owners must be made separately in the Polish Central Register of Beneficial Owners within 14 days from the company's registration. Failure to submit the relevant information may be subject to a fine up to PLN 1,000,000.

Upon entry in the National Court Register, the company obtains legal personality and becomes duly incorporated, ceases to be in organisation, and assumes the rights and obligations of the company in organisation.

For the purpose of later activities, some or all company management board members should be provided with e-signatures compliant with Polish requirements.

A special form of joint-stock company that may be incorporated under Polish law is a European Company (*Societas Europaea*), regulated under the Council Regulation on the Statute for a European Company (2157/2001) and supplementary Polish legislation.

Simple joint-stock company

In general, the simple stock company was created as a vehicle for investing in innovation and new technologies. It provides the flexibility necessary to use electronic communications and other IT tools at every stage of the company's operations. It may be established by one or more persons, but not solely by a single-shareholder limited-liability company.

The founders sign the statute of the company, in the form of a notarial deed. The company is established when all the shares are taken up. Upon formation a simple stock company “in organisation” is created. Until appointment of the management board, the company in organisation is represented by all of the founders together or by a proxy appointed by unanimous resolution of the founders.

The company in organisation may acquire property in its own name, including real estate and other tangibles, incur liabilities, and sue or be sued. The phrase *w organizacji* (in organisation) is appended to the end of the name.

Establishment of a simple stock company requires:

- formation of the company, including signing of the statute by the founders and taking up of all shares (the statute may be signed in electronic form using the S24 system, but this will have to be notarised if the company is incorporated solely through in-kind contributions)
- payment by the shareholders of contributions to cover the share capital (a simple stock company has share capital created from shareholder contributions of PLN 1 or more; the shares have a nominal value and will not be part of the share capital)
- appointment of a management board or board of directors (establishment of a supervisory board is voluntary)
- entry in the National Court Register.

Shares in a simple stock company are in dematerialised form. Establishment of a simple stock company requires an entity to be chosen to maintain the register of shares and an agreement to be concluded to maintain the register.

Simple stock companies are also required to maintain a website on which communications to shareholders are posted.

In the case of these companies, the process of drawing up the articles of association or statute, appointment of the authorities, and payment of the share capital takes about 3 weeks. It then takes about another 3 to 4 weeks to obtain entry in the National Court Register.

The management board files an application with the registry court for the company’s registered office to enter the company in the National Court Register. All members of the management board sign the application to register the company.

The company obtains income tax and statistical registration upon entry in the National Court Register. The appropriate numbers are entered in the company's register ex officio.

The company files separately for VAT and/or EU VAT and social insurance registration, if it plans to hire any staff. It is also possible to obtain income tax and statistical registration before filing the application with the National Court Register, to accelerate the process of obtaining VAT and/or EU VAT registration.

Filing of the company's beneficial owners must be made separately in the Polish Central Register of Beneficial Owners within 14 days from the company's registration. Failure to submit the relevant information may be subject to a fine up to PLN 1,000,000.

Upon entry in the National Court Register, the company obtains legal personality and becomes duly incorporated, ceases to be in organisation, and assumes the rights and obligations of the company in organisation.

For the purpose of later activities, all company management board members should be provided with e-signatures compliant with Polish requirements.

Costs of establishing a company

Minimum share capital for limited-liability company: PLN 5,000

Minimum share capital for joint-stock company: PLN 100,000

Minimum share capital for simple stock company: PLN 1

The fee for drawing up the articles of association or statute (notarial deed) depends on the amount of the share capital and should be confirmed in each case by the notary.

There is a tax on civil-law transactions of 0.5% of the share capital, payable upon signing the articles of association or statute.

The registration fee (including mandatory announcement in the official journal *Monitor Sądowy i Gospodarczy*) is PLN 600.

If a power of attorney is used, there is a stamp duty of PLN 17 on each power of attorney.

There is no requirement for a shareholder or member of the management board or supervisory board to be a Polish national. However, a member of the management board, supervisory board or audit committee or liquidator must be a natural person with full legal capacity.

So long as the minimum requirements for share capital are met, the manner of capitalisation of the company may be adjusted to suit the considerations of the shareholders, e.g. from a tax point of view.

Companies with unlimited liability

The only companies under Polish law that are regarded as legal persons are companies, i.e. the limited-liability company, the joint-stock company and the simple stock company, and they offer shareholders limited liability. The other types of “company” under Polish law, referred to as “personal companies,” are all some form of partnership. “Personal companies,” discussed in more detail below, do not have legal personality, but are regarded as “organisational units without legal personality.” Partnerships involve unlimited liability to some degree, for at least some of the partners. Nonetheless, both companies and partnerships themselves bear unlimited liability for the company’s or partnership’s own obligations.

General and limited partnerships

Under Polish law, there are several types of partnerships that are regarded as “commercial companies” and governed by the Commercial Companies Code: the registered partnership (*spółka jawna, abbreviation s.j.*), the professional partnership (*spółka partnerska, sp.p.*), the limited partnership (*spółka komandytowa, sp.k.*) and the joint-stock limited partnership (*spółka komandytowo-akcyjna, SKA*).

These partnerships are established upon entry in the National Court Register. They may acquire property in their own name, including real estate and other tangibles, incur liabilities, and sue or be sued. A partnership does business under its own partnership name.

In a registered partnership or professional partnership, the partners are personally liable for the obligations of the partnership; however, in the case of a professional partnership, a partner is not personally liable for the company’s

obligations arising out of the professional practice of other members of the partnership.

Another form of unlimited partnership is the ordinary or “civil” partnership (*spółka cywilna, s.c.*), which is not considered a “commercial company” and not a separate business entity from its partners. It is governed by the Civil Code rather than the Commercial Companies Code. It is not regarded as a separate legal entity (legal person or organisational unit without legal personality), but acts through its partners. For a foreign individual to do business in Poland via an ordinary partnership, he or she must meet the requirements provided for operating a sole proprietorship.

There are two types of limited partnerships: the limited partnership and the joint-stock limited partnership.

Partners in partnerships may be natural persons, legal persons, or organisational units without legal personality. If a partner is a natural person, in the case of an ordinary partnership, registered partnership or professional partnership, he or she must meet the requirements for a sole proprietorship (discussed below); there is no such restriction in the case of a limited partnership or joint-stock limited partnership. A commercial company, whether a legal person (limited-liability company, joint-stock company or simple stock company) or an organisational unit without legal personality (registered partnership, professional partnership, limited partnership or joint-stock limited partnership) may generally be a partner in a partnership.

There is a special requirement for partners in a professional partnership: they may only be natural persons authorised to practise one of the free professions, e.g. persons licensed to practise as an accountant, advocate, appraiser, architect, auditor, dentist, engineer, insurance broker, investment adviser, attorney-at-law, midwife, notary, nurse, patent attorney, pharmacist, physician, securities broker, sworn translator, tax adviser or veterinarian. Practice of the free profession within the professional partnership may also be conditioned on fulfilment of additional requirements set forth in other laws.

The partnership agreement for a limited partnership or joint-stock limited partnership must always be drawn up in the form of a notary deed. For other partnerships, the partnership agreement must only be made in writing, unless real estate is to be contributed to the partnership, in which case a notarial deed is required.

“Personal companies” (i.e. partnerships other than the civil partnership) are subject to entry in the National Court Register; the registration fee (including mandatory announcement in the official journal *Monitor Sądowy i Gospodarczy*) is PLN 600.

Filing of the partnership’s beneficial owners must be made separately in the Polish Central Register of Beneficial Owners within 14 days from the partnership’s registration. Failure to submit the relevant information may be subject to a fine up to PLN 1,000,000.

A civil partnership is entered instead in the Central Registration and Information on Business (CEIDG).

There are generally no specific requirements concerning the amount of partnership contributions, except that a joint-stock limited partnership must have a minimum share capital of PLN 50,000.

In the limited partnership and the joint-stock limited partnership there are two types of partners. There are one or more general partners, who have unlimited liability for the debts of the partnership, but enjoy additional rights, e.g. the right to conduct the affairs of the partnership and represent the partnership. There are also one or more limited partners (also referred to as a “stockholder” in the case of a joint-stock limited partnership). A limited partner in a limited partnership is liable only up to a fixed sum established in the partnership agreement. A stockholder in a joint-stock limited partnership does not bear any personal liability as such for the partnership’s obligations, but bears an economic risk up to the value paid for the stock.

In other “personal companies,” the partners are personally liable without limit for the obligations of the partnership, but it is secondary liability, meaning that creditors may execute against the partner’s assets only when execution against the partnership is ineffective.

In the case of a civil partnership, the partners’ liability is primary. Each partner is treated like an individual business entity, and the partnership as such is not a business entity. Partners in a civil partnership are jointly and severally liable for the obligations of the partnership without limit.

Undisclosed partnerships

Under current Polish law, there are no specific regulations recognising the notion of a silent partnership. (The concept was once regulated in the former Obligations Code, since repealed.) Now, a silent partnership may be established in the sense of an unclassified type of agreement under general principles of freedom of contract. It constitutes a contractual relationship rather than a legal entity. The silent partner makes a contribution (e.g. in the form of cash or other consideration) and then participates in the profit generated by the activity conducted by the active partner. The silent partner is not revealed in any way externally and thus bears no liability for the business that is conducted. The silent partner has no right to conduct the affairs of the business or represent the business.

Because of a lack of appropriate regulations, operating in the form of a silent partnership may be problematic, particularly because tax and other public authorities often treat the operations of a silent partnership as a type of de facto civil partnership or treat the silent partner's contribution as a loan.

A silent-partner relationship is created by entering into an agreement. The parties are free to frame the terms of the agreement within their discretion, so long as the substance of the relationship and its purpose are not contrary to the law, principles of social coexistence or the nature of a silent partnership.

The agreement need not be made in writing, but for evidentiary purposes written form is preferable, and a more rigorous form such as a notarial deed may also be used. A particular form may be required by specific regulations (e.g. for transfer of real estate or an enterprise).

The active partner operates the business and thus is required to register as a business entity in the relevant form.

Because a silent partnership is only a contractual arrangement and is not subject to registration, there are no specific costs entailed in establishing one, other than a possible requirement to pay civil-law transactions tax.

It appears that because the silent partner does not conduct business activity, no particular restrictions or requirements apply to the silent partner. The active partner is a business entity, and thus is subject to the regulations concerning conduct of business activity, e.g. in the form of a sole proprietorship.

A silent partner does not bear liability for the obligations of the business. The active partner is liable without limitation for the obligations of the business.

Sole proprietorships

Business may be conducted in Poland in the form of a sole proprietorship. A sole proprietorship may be conducted only by a natural person with full legal capacity. Foreign individuals may operate a sole proprietorship in Poland if they meet any of the following criteria:

- They are citizens of a member state of the EU, EEA or EFTA, or a country whose citizens have the right to conduct business here under a treaty with the EU or its member states.
- In Poland, they hold any of the following:
 - ◊ settlement permit
 - ◊ permit for long-term residence in the EU
 - ◊ residence permit for a fixed period
 - ◊ family reunification residence permit for a fixed period
 - ◊ refugee status
 - ◊ supplementary protection
 - ◊ permit in connection with humanitarian reasons
 - ◊ consent to tolerated stay
 - ◊ residence permit for a fixed period, and married to a Polish citizen residing in Poland
 - ◊ permit for a fixed period for the purpose of conducting business activity, granted due to previously conducted business activity based on an entry in the Central Registration and Information on Business (CEIDG).
- They enjoy temporary protection in Poland.
- They hold a valid Polish Card (for foreigners of Polish background).
- They are family members of citizens of EU member states.
- They are in Poland awaiting a decision on granting of a permit for either a fixed period or long-term residence, but with the application for such permit made in time and no formal mistakes having been identified, or based on a stamp confirming a filed application for long-term EU residence, if they have been authorised to conduct business activity in Poland prior to filing of this application.

Conducting business as a sole proprietorship requires entry in the Central Registration and Information on Business (CEIDG), which is administered via the local commune for the individual's place of residence. Business may be commenced upon filing of the application for entry in CEIDG, or the

applicant may designate a later date for starting to conduct business— there are no temporal restrictions in this respect. There is no fee for the application.

A person conducting business in the form of a sole proprietorship bears unlimited liability for the obligations of the business.

There are no capital requirements for a sole proprietorship.

Subsidiaries, branches, representative offices

Foreign business entities, i.e. natural persons without Polish citizenship, legal persons with their registered office abroad, organisational units with legal capacity but without legal personality registered abroad, conducting business abroad, may establish representative offices, branches or subsidiaries in Poland.

A representative office of a foreign business may conduct activity in Poland only involving advertising and promotion of the given foreign entity.

A branch of a foreign business entity may be established under the principle of reciprocity, unless otherwise provided by treaty. A branch may perform activity only within the scope of the activity of the foreign entity.

Establishment of subsidiaries means the ability to conduct business under the rules provided by Polish law.

As for foreign individuals, they may conduct business in Poland on the same basis as Polish citizens if they meet the criteria outlined above for operating a sole proprietorship.

Other foreign persons may take up and conduct business in Poland only in the form of a limited-liability company, joint-stock company, limited partnership or joint-stock limited partnership, and may take up or acquire shares in such companies, unless otherwise provided by treaty.

A representative office is established by entry in the register of representative offices maintained by the Minister of Development and Technology. Under the administrative procedure guidelines, the entry should be made within 30 days after submission of the application, but in practice, if the application is complete and in order, the entry should be made within just a few days. A certificate of entry is then issued. The application is subject to stamp duty

of PLN 1,000, not counting other costs such as sworn translations of the required documents. The decision on entry of the representative office of the foreign business entity is issued for a period of 2 years and may be prolonged for subsequent 2-year periods.

A branch of a foreign business entity is established by entry in the commercial register of the National Court Register. The guidelines call for the registry court to make the entry within 7 days, although in practice the time varies from less than a week to as long as a month. The fee for the court filing plus mandatory announcement in the official journal *Monitor Sądowy i Gospodarczy* is PLN 600. There are other costs as well, such as fees for sworn translations of required documents.

Neither a representative office nor a branch has legal personality. They are considered a part of the foreign business entity, which is responsible for their actions and their obligations. The foreign entity is the party to legal relationships, such as contracts concluded by the representative office or branch, lawsuits or the like.

Subsidiaries are typically created in the form of a limited-liability company. Establishment of the company, as with other commercial companies (joint-stock company, simple stock company, registered partnership, professional partnership, limited partnership or joint-stock limited partnership), requires entry in the commercial register of the National Court Register. The requirements and fees are discussed in detail in the previous section.

Starting from 13 October 2022 it is possible to create a “group of companies,” i.e. a controlling company and a subsidiary company or subsidiary companies, which, pursuant to a resolution on participation in a group of companies, are guided by a common strategy with a view to achieving a common interest (interest of the group) justifying the single direction exercised by the controlling company of a subsidiary company or subsidiary companies. It is not required that a Polish citizen be a shareholder or member of the company’s authorities. However, in the case of a representative office or branch it is necessary to provide the name and address within Poland of a person responsible for representing the office or branch.

Trusts and other fiduciary entities

The institution of the trust, in the sense of an arrangement under Anglo-Saxon legal principles in which legal title to assets is held in the name of a trustee for the benefit of a beneficiary who has a beneficial interest in the assets, is not recognised under Polish law. Therefore, under choice of law rules, a trust as such may not be established in Poland.

Nonetheless, transactions structured in a manner similar to a trust, and with similar purposes, are recognised in Poland. The regulations concerning a service agreement (*umowa zlecenia*) will typically apply in such cases. In such an agreement, the contractor undertakes to perform a specific legal act for the principal, for a fee.

8. Requirements for establishing a business

Antitrust laws

Businesses in Poland are prohibited from abusing a dominant position or entering into agreements restricting competition, as set forth in the Competition and Consumer Protection Act of 16 February 2007.

The act also contains rules on merger control. The acquisition of an undertaking in Poland or the creation of a new undertaking by two or more undertakings must be reported to the competition authority (Office of Competition and Consumer Protection—UOKiK) if the transaction and parties meet financial thresholds set out in the act. The creation of a joint undertaking is subject to notification to the competition authority if the combined turnover of undertakings participating in a concentration (their capital groups) in the year preceding the year of notification exceeded EUR 1 billion worldwide or EUR 50 million in Poland. The creation of a joint venture is exempt from the notification requirement when the turnover in Poland of either of the undertakings participating in the concentration (including their capital groups) did not exceed the equivalent of EUR 10 million in Poland in each of the two years preceding the planned transaction (*de minimis exemption*).

Acquisition of control of another undertaking is subject to the notification requirement if the combined worldwide turnover of the acquirer's capital group and the target exceeds EUR 1 billion or EUR 50 million in Poland. However, only the turnover of the target (and its subsidiaries), instead of its entire capital group, is taken into account for thresholds triggering the notification obligation for acquisition of control over an undertaking or an acquisition of assets. The *de minimis* exemption applies if the turnover of the target in Poland did not exceed EUR 10 million in either of the two years preceding the planned transaction.

In the case of an acquisition of control, the notification should be filed by the acquirer. The creation of a joint venture must be reported jointly by the parties to the joint venture. The filing fee is currently PLN 15,000.

Notification of an intended concentration may be made once the intention is documented, for example by signing a letter of intent.

The merger control procedure is two-phased. Easy cases raising no concerns about restriction of competition are closed in phase I, which lasts up to one month. More complex cases or cases raising justified concerns as to a significant restriction of competition are extended for another four months (phase II) by a decision of the president of UOKiK. Moreover, UOKiK issues a statement of concern in the course of proceedings in cases raising competition concerns. This is designed to facilitate proposal by the notifier of modifications to the transaction or preparation, for example, for conditional clearance. The competition authority may extend both periods (phase I and phase II) by requesting additional information (which it often does).

The competition act sets a maximum fine for not filing if 10% of the notifier's turnover in the financial year prior to imposition of the fine. The president of UOKiK may also fine managers of companies participating in a concentration for failure to notify. The maximum current rate of such fine is about EUR 65,000.

Foreign direct investment (FDI) control

FDI control is a Covid-related law which, from July 2020, introduced limitations on foreign investments in Poland (the FDI rules are included in the Act on Control of Certain Investments of 25 July 2015). The aim of this legislation is to ensure that public order, security and health considerations are respected when investors acquire dominance or significant participation in

protected companies. The authority responsible for enforcing the FDI rules is the president of UOKiK.

FDI protection now relates to all Polish entities that meet both of two criteria. The first is revenue from sales and services of the protected entity in the territory of Poland of EUR 10 million or more in either of the two financial years preceding the notification (this value is comparable to the criterion for merger-control proceedings conducted by UOKiK).

The second criterion is that the protected entity meets one of the following characteristics:

- it is a public company
- it holds property on a consolidated list of facilities, installations, equipment and services deemed to be critical infrastructure, or
- it conducts business in certain areas (defined broadly by the FDI regulations).

The following business activities, *inter alia*, are covered by the FDI rules: electric power generation; production of motor gasoline or diesel fuel; pipeline transportation of crude oil, motor gasoline, or diesel fuel; storage and warehousing of motor gasoline, diesel fuel, or natural gas; underground storage of crude oil or natural gas; manufacture of chemicals, fertilisers, and chemical products; manufacture and trade in explosives, weapons and ammunition, as well as goods and technology for military or police use; regasification or liquefaction of natural gas; transshipment of crude oil and its products in sea ports; distribution of natural gas or electricity; transshipment in ports of primary importance to the national economy; telecommunications; transmission of gaseous fuels; production of rhenium; mining and processing of metals used in the manufacture of explosives, weapons and ammunition, as well as products and technology for military or police use; manufacture of medical equipment, instruments and products; manufacture of medicines and other pharmaceutical products; trading in gaseous fuels and gas abroad; generation or transmission or distribution of heat; transshipment in inland ports; processing of meat, milk, cereals and fruit and vegetables.

Moreover, the FDI controls apply only to foreign investors who:

- are domiciled (directly or indirectly) outside the EU, EEA or OECD and also
- wish to obtain (directly or indirectly) dominant status over a Polish company (the ability to decide on the directions of activities of the protected entity) or to acquire significant participation in the target company (achieving or exceeding respectively the threshold of 20% or 40% of the total number of votes in the decision-making body of the protected entity, 20% or 40% of

profits of the protected entity, or 20% or 40% of the capital in a protected entity that is a partnership).

The investment control proceedings will lead to issuance by UOKiK of a decision on whether or not it objects to the intention to obtain dominant status or significant participation in a protected entity. The deadline for issuing this decision is 30 days as part of initial proceedings, i.e. if the case does not require additional control proceedings. If control proceedings are conducted, UOKiK will issue an investment control decision within a total of 150 days from initiation of the proceedings. UOKiK will be able to object to the intention to achieve the status of significant participation or dominance over the protected entity if there is at least a potential threat to public order, security or health. An objection may also be raised if the relevant legal acts are likely to have a negative impact on projects and programmes of European Union interest.

The sanctions for breaching the FDI requirements can be serious: invalidity, inability to exercise rights, fines up to PLN 50 million (c. EUR 12 million), imprisonment from 6 months to 5 years, or both.

Environmental regulations

As in other EU countries, environmental laws must be taken into consideration when doing business in Poland, both at the stage of conducting development projects and during subsequent operations.

For many projects, at the development stage, before obtaining a building permit, it is necessary to obtain a decision on environmental conditions, if the project could have a significant environmental impact. The decision defines, among other things, the site and type of project, conditions for exploitation of the environment during the stages of development and operation of the project, with particular emphasis on the need to protect valuable natural resources or landmarks, as well as restrictions on interference with neighbouring plots. The decision may also impose an obligation to carry out compensatory measures as well as prevent, contain and monitor the environmental impact of the project.

Before obtaining a decision on environmental conditions, it may be necessary to conduct an environmental impact assessment procedure, involving preparation of an EIA report and conducting public consultation.

During the operational phase, the venture must also comply with numerous requirements under Polish environmental law, depending on the type and extent of the activity.

For example, environmental permits may be necessary to conduct a given type of business, such as a permit for a specific installation defining the permissible limits for emission of gases and dust into the air. Generation of waste above a certain volume as well as waste treatment and collection may require a permit. An integrated permit is required for certain types of installations whose operations could cause significant damage to individual components or to the environment as a whole. A water permit is required for particular types of water use, such as water intake or discharge of sewage to water or land.

Certain types of activity must meet additional conditions or obtain additional permits, for example businesses handling specific types of wastes, introducing products onto the market in packaging, selling electronic equipment, and so on. Such activity may require for instance registration of the business in the Waste Database and preparation of waste records and reporting via the database. Failure to comply with environmental requirements may result in criminal, civil and/or administrative liability.

Administrative liability is of primary importance. There is a system of fines that may be imposed by environmental protection authorities, and decisions may also be issued requiring reductions in environmental impact or remediation of damage, or even ordering shutdown of specific operations or a specific facility. The amount of the fine may vary depending on the breach.

Alongside administrative liability there is also civil liability in damages, which is particularly significant for plants powered by natural forces, which are subject to strict liability.

Criminal sanctions may also be imposed for environmental offences. For example, storage, disposal, processing or transport of waste in a manner that may threaten human life or health, cause substantial harm to plants or animals, or bring about a significant deterioration of the quality of water, air or soil is subject to a penalty of imprisonment from 1 to 10 years.

The three liability regimes operate on independent tracks, meaning that the same act could be subject to administrative, civil and/or criminal liability.

There are also certain fiscal and reporting obligations when taking up activity that may affect the environment. Businesses are required to maintain detailed

records, file reports on exploitation of the environment, and calculate and pay fees for exploitation of the environment: waste storage, emissions into the air and so on. A particular concern with respect to handling of certain types of waste is the need to achieve specific levels of recycling and recovery, with fees assessed for failure to meet the targets.

In addition to the obligation to pay various fees, the regulations also provide for fees that serve as sanctions. If a business exploits the environment without a required permit, it is required to pay “increased fees.” For example, in the case of emission of gases or dust into the air without a required permit, an “increased fee” for exploitation of the environment is equal to 500% of the regular fee. Violation of a number of other regulations or permit conditions requires payment of administrative fines.

Additional costs may also arise out of obligations that may be imposed in decisions issued by environmental authorities. For example, a decision requiring limitations on environmental impact may impose an obligation on a business to take preventive measures, or the obligation to pay fines may be imposed on an entity conducting operations in violation of environmental regulations.

Government approvals

According to Art. 22 of the Polish Constitution, “Limitations upon the freedom of economic activity may be imposed only by means of statute and only for important public reasons.”

Thus there is a general principle of freedom to perform business activity, but in specific instances a concession, licence, permit or registration may be required. In some cases a company conducting certain types of activity is required to have personnel on staff who are licensed to practise a specific profession.

From 30 April 2018 the main guidelines concerning regulated business activity can be found in the Business Law. The number of regulatory provisions affecting business activity in Poland will not decrease, but they are spread more widely across industry-specific regulations. As a rule there are three forms of regulated activities.

- ♦ **Business activity requiring a concession.** This is the activity most strictly controlled by regulatory authorities as it relates to strategically important areas of the economy (e.g. trade in fuels, or extraction of fossil fuels) and there are usually fewer concessions available than the number of

applicants seeking them. Sometimes concessions are awarded in tenders under the Public Procurement Law.

- **Business activity requiring a permit.** In principle any entity that fulfils the criteria for a permit for a particular type of business activity (for example production and trading in medicinal products, or production and trading in dual-purpose products) will be issued a permit. In some cases the criteria are unclear, giving the authority granting the permit greater discretion.
- **Activity requiring registration.** The requirement for entry in the relevant regulated activity register means that notification has to be given of the intention to take up the activity prior to commencing the activity. In principle, the regulatory requirements for activity subject to this obligation (for example ensuring a product safety monitoring system) are fulfilled by declarations or documents submitted by the business. The notified authority does not verify them.

Under certain circumstances, acquisition of real estate in Poland by a foreigner requires a permit, which is issued by the Minister of the Interior, if there is no objection by the Minister of Defence or in the case of farmland by the Minister of Agriculture and Rural Development.

There are also legal regulations in force in Poland designed to counteract anti-competitive practices and practices infringing the collective interests of consumers, as well as business concentrations that may have a negative effect on competition within the territory of Poland.

It is hard to give more than general guidelines on how long it takes to obtain permits or licences. The state authorities that issue them are required to comply with rules for administrative procedure and to resolve matters without undue delay. Under the guidelines, a matter requiring explanatory proceedings should be resolved within one month, or a particularly complicated matter within two months. An appeal should be decided within one month. In practice the length of the procedure depends on the type of activity involved and the amount of documentation, and may last from about 2 weeks to several months.

The fee depends on the particular type of permit or licence involved.

Insurance

Certain types of activity require mandatory insurance.

Pursuant to the Polish Mandatory Insurance Act, only motor vehicle owners and farmers are required to take out mandatory insurance. The Act also imposes a general regulation according to which such obligation (to conclude mandatory insurance) may arise from an act or an international agreement ratified by the Republic of Poland. At the end of 2013, the Polish Insurance Association (statutory trade association representing all insurance companies operating in Poland) analysed about 2,000 legal acts; this led to the general conclusion that such an obligation (as regards third party liability insurance and property or personal insurance) exists in the Polish legal system for approx. 160 professions and/or business activities.

Currently there are specific regulations requiring civil liability insurance for such professions as:

- appraisers, architects and engineers
- advocates, attorneys-at-law and tax advisers, including foreign lawyers giving legal advice in Poland, notaries, auditors, patent attorneys, book-keepers and detectives
- healthcare providers, such as physicians, and sponsors and researchers conducting clinical trials
- organising large-scale public events.

Insurance for diplomatic personnel is governed by treaty or international convention.

Directors and officers (D&O) insurance is becoming a part of companies' risk management in Poland. This type of insurance covers liability for company managers (such as the management board, president, vice president, CEO) and protects them generally from claims which may arise from the decisions and actions taken within the scope of their duties.

In addition to D&O insurance, insurance products that protect specific areas of business activity are becoming more popular in Poland. Examples include business interruption insurance (which may cover some lost profits), warranty and indemnity (W&I) insurance in M&A transactions and cyber-insurance (covering selected cyber risks for businesses). However, such insurance coverage must meet certain requirements of insurers before conclusion of the insurance policy by the policyholder.

The insurance industry is regulated by the state. Offering and providing insurance against risk may be conducted only in the form of a joint-stock company or mutual insurance society, pursuant to a licence issued by the Polish Financial Supervision Authority (KNF), which oversees insurance activity, such as:

- review and approval of the insurer's statute
- approval of two members of the management board and certain forms of oversight concerning the supervisory board
- determination of required financial reserves/capital requirements.

Moreover, over the last few years, KNF has issued recommendations with a significant impact, for example, on insurance distribution or the claims-handling process.

In line with EU law, insurers from other EU member states can operate in Poland either on the basis of the free movement of services principle (cross-border "passporting") or through a branch.

In practice, foreign insurers usually operate on the Polish market through branches or subsidiaries.

Complex cross-border and domestic transactions are mainly insured by a group of insurers or special-purpose vehicles.

9. Operation of a business

Advertising

The rules for advertising in Poland are not codified in one place, but are spread through various acts. These acts include (i) implementation of the EU regulations on combating unfair competition and counteracting unfair market practices and (ii) regulations that apply to specific groups of goods and services; for example advertising of tobacco, gambling, and prescription medicines is prohibited in Poland, as is advertising of alcoholic beverages, with the exception of beer; beer advertising is permitted but is subject to a number of restrictions, including time restrictions on radio and television ads.

In addition to the above, many market participants follow self-regulation principles set forth in the Advertising Ethics Code adopted by the Polish Advertising Council or industry codes.

In Poland, advertising content must be clearly distinct from other content or marked in a way that makes it clear that it is advertising. Advertising must not be misleading, or play on the audience's emotions by exploiting fear or

superstitions, or the gullibility of minors, or intrude on privacy, in particular by bothersome solicitation in public places, sending unordered goods to customers at their cost, or abusing technical means of communication. Comparative advertising is permitted but only under precisely defined conditions.

Attorneys

In Poland, legal assistance in civil and criminal matters for businesses and individuals is provided by advocates (*adwokaci*) and attorneys-at-law (*radcy prawni*). The division into two different bars had a historical justification, but the types of matters handled by the two groups are now the same.

In Polish law there is no requirement to use only the services of Polish lawyers, however.

A lawyer licensed elsewhere in the EU may register in Poland with the Regional Bar Chamber (for advocates) or the Regional Chamber of Attorneys-at-Law (for attorneys-at-law) and practise regularly in Poland in the same scope as a Polish advocate or attorney-at-law, respectively.

A lawyer from outside the EU may also register with the bar in Poland, but their regular practice in Poland is limited to providing legal advice or opinions on the law of the country where they are licensed or international law. Each Regional Bar Chamber and Regional Chamber of Attorneys-at-Law maintains a list of licensed practitioners on its website.

Fees for court appearances by advocates are governed by a regulation of the Minister of Justice (Regulation of 28 September 2002), but the regulation only sets minimum fees, and only for work before the court. Thus advocates are free to set higher fees for court appearances and set their own rates for out-of-court work. There is a comparable system in place for attorneys-at-law.

In litigation, the usual practice is that the prevailing party is awarded attorney's fees from the losing party, but only at the minimum rates provided by the regulation of the Minister of Justice. Thus, in practice, the prevailing party typically does not recoup its full attorney's fees.

Bookkeeping requirements

Accounting records are maintained in the Polish language and currency by each entity, which may outsource this task to accountants in Poland or another EU member state.

Business entities which are natural persons, civil partnerships of natural persons, civil partnerships of natural persons and inherited enterprises, registered partnerships of natural persons, professional partnerships and certain inherited enterprises are allowed to maintain simplified accounting records, but once the net revenue from the sale of goods, products, and financial operations for the prior financial year exceeds the PLN equivalent of EUR 2 million, they are required to maintain full accounting records.

If accounting records are maintained outside of the registered address or headquarters of the entity, the director of the entity must notify the competent local tax office of the location where the books are held. The books must be maintained in a manner assuring access by inspectors if need be.

Companies (limited-liability companies, joint-stock companies and simple stock companies) are required to maintain full accounting records. However, entities, including companies, that are micro and small entities (depending on the sum of assets, revenues and the number of employees) may apply simplifications in the preparation of financial documents provided in law (for example, no necessity to prepare report on the company's activity), if such a decision was made by the approving body (e.g. with respect to companies, via a shareholders' resolution).

Accounting standards in Poland are based on legal regulations as well as generally accepted principles.

The entity manager should provide prepared annual financial statements no later than 3 months from the balance sheet date and submit these to the competent authorities for their opinion or approval.

Financial statements are drawn up only in electronic form and should be affixed with a qualified electronic signature, a trusted signature or a personal signature. With respect to entities entered in the commercial register of the National Court Register (inter alia partnerships and companies), financial statements are prepared according to the logical structure and in the format made available in the Public Information Bulletin on the governmental website. Financial statements should be e-signed by a person responsible for

bookkeeping and by the manager of the reporting entity, and where the managing body is composed of a number of members, by at least one member of that managing body. In such case, the remaining members of the managing body should submit statements (wet-ink signature is sufficient) that the financial statements meet the requirements laid down in the Accounting Act. This new solution is particularly useful if not all members of the managing body have an e-signature.

Annual financial statements must be approved by the relevant authority (depending on the legal form of the entity) not later than 6 months after the balance sheet date. The annual accounts of certain entities are subject to the opinion of an auditor before approval.

Financial documents i.e. annual accounts, the auditor's opinion (if required by law), the resolution adopted by the relevant authority on approval of the annual financial statements and distribution of profit or covering of loss, and in the case of certain entities also a report on activities, should be filed with the relevant court register within 15 days after approval of the annual financial statements. Financial documents are submitted electronically. The notification should be signed with a qualified electronic signature, trusted signature or personal signature by at least one natural person whose PESEL number (i.e. Polish statistical number) is disclosed in the commercial register as a person authorised to represent the entity on their own or jointly with other persons, a proxy, a receiver, an administrator appointed in restructuring proceedings, or a liquidator. Also professional attorneys such as attorneys-at-law, advocates or foreign lawyers whose details are available in the relevant ICT system and possessing a PESEL number may submit financial documents on behalf of the entity pursuant to a power of attorney.

Failure to prepare financial documents or submit them to the relevant court register exposes responsible persons to criminal liability. Also, if the financial documents of the entity entered to the register are not filed on time, the registry court may summon the obliged persons to submit them and set an additional 7-day deadline. If the deadline is not met, a fine is imposed (of maximum PLN 15,000, which later can be re-imposed multiple times). In the most extreme case, the registry court may ex officio initiate proceedings for dissolution of the entity without conducting winding-up proceedings, if despite the registry court summons, the annual financial statements for two successive financial years were not submitted.

Entities obliged to prepare financial statements, except for entities exempt from corporate income tax and entities obliged to submit financial statements

to the National Court Register, are required to file aforementioned documents electronically with the head of the National Revenue Administration within 15 days from the date of approval of the annual financial statements.

Business ethics/codes

There are a number of various business ethics codes in Poland. Companies listed on the Warsaw Stock Exchange undertake to comply with corporate governance rules prepared by the Warsaw Stock Exchange (Best Practice for WSE-Listed Companies 2021).

There are also sector ethics codes, e.g. best practices of banks and other financial institutions, and chambers of commerce often issue such rules.

Ethics codes are also applied within certain professional groups, e.g. lawyers and auditors.

Consumer protection laws

Businesses operating in Poland must comply with consumer protection laws. The Act on Counteracting Unfair Market Practices of 23 August 2007 prohibits the use of unfair market practices, such as those contrary to good practice and those which substantially distort or could distort the behaviour of an average consumer in the market. Practices that mislead consumers are, in particular, regarded as unfair. Unfair market practices may lead to civil and/or criminal liability.

Indirectly, the Act on Combating Unfair Competition of 16 April 1993 sets forth business rules that also relate to consumers.

It is illegal for businesses to use practices that violate the collective interests of consumers. This prohibition arises under the Competition and Consumer Protection Act of 16 February 2007. Practices that violate collective interests of consumers are unlawful activities by businesses which are detrimental to consumers and which involve, for example, use of fraudulent or misleading advertising or illegal contractual clauses, or breach of the duty to provide consumers with reliable, truthful and complete information. Such practices are punishable by fines of up to 10% of the turnover generated in the financial year preceding the year in which the penalty is imposed. Furthermore, UOKiK may impose a fine on a managing person of up to PLN 2,000,000 if

that person, as part of the performance of his or her function at the time of the identified violation, intentionally enabled, through his or her act or omission, a business entity to violate the prohibitions set out in the Competition and Consumer Protection Act.

Businesses must also comply with the consumer sales regulations in the Consumer Rights Act of 30 May 2014 and the Civil Code, regulating inter alia consumers' rights when a product they purchased fails to conform with the sales contract, rules for distance selling and for sale of financial services, and guarantee at sale.

The Consumer Credit Act of 12 May 2011 regulates rights and obligations related to consumer credit.

According to the Polish Language Act of 7 October 1999, in Poland, the Polish language shall be used in transactions with consumers.

Construction

Key costs associated with construction projects include buying land for the project, construction materials, project design, general contractor costs, supervision of construction and project financing. There are no substantial administrative or tax-like fees.

Several administrative consents and permits are required before construction may begin. Local zoning plans determine what may be constructed in a given area. If no local zoning plan is in force for the area, the investor must apply for and obtain a decision on construction terms for the specific project. The decision will be issued only if the intended project is compatible with surrounding structures. Furthermore, if the project might impact the natural environment, the investor must obtain an environmental decision, which will determine the conditions to be met to avoid harm to the environment.

The project design needs to be approved before construction may begin. The approval is issued in the form of a building permit. There are some exceptions to the need to obtain a building permit, generally involving minor structures, such as detached single-family buildings or temporary and auxiliary structures.

The decision on construction terms (i.e. if no local zoning plan exists) is obtained from the local government administration. If the project meets legal

conditions, the investor will obtain a decision defining the essential and admissible project parameters. As a rule, decisions on construction terms should be issued within two months after applying, but the proceedings usually take much longer.

Building permit decisions are generally also issued by the local government administration, except in cases of major infrastructure projects, when building permits may be issued at a regional level (usually by the province governor). Building permits are issued upon the investor's application accompanied by a complete set of project design documents and decision on construction terms, if necessary. Building permit decisions must be issued within 65 days after filing of the application, if all the necessary documents have been submitted.

The administrative procedure involved in obtaining a decision on construction terms or a building permit is subject to a small fee whose amount depends on the project's size and intended purpose.

Contracts

Based on the principle of freedom of contract, under Polish law an investor may freely enter into local contracts. In certain instances there may be a requirement to register the agreement or its effects (for example, when an investor buys or sells shares it may be necessary to enter this information in the company's share ledger or in the National Court Register; transfer of an interest in real estate must be entered in the land and mortgage register; and so on). Some agreements are subject to the tax on civil-law transactions (stamp duty), e.g. certain sale agreements and loan agreements.

Under Rome I (Regulation (EC) 539/2008), which is part of the Polish legal order, the parties to a contract may agree on the law that will govern the contract. However, if all of the factual circumstances surrounding the contract are tied to a state whose law was not chosen, the laws of that state that cannot be excluded by contract will also apply. Laws of mandatory application in the state whose court is deciding a case related to the contract will also apply, regardless of the choice of law clause.

Price controls

As a rule, prices are agreed upon by the parties to a transaction. When determining prices, attention should be paid to relevant aspects of competition law and consumer law. Prices are subject to specific regulation in certain sectors of the economy.

Medicinal products, medical devices, foodstuffs intended for particular nutritional purposes and medical products

Official (fixed) prices apply to medicinal products, medical devices and foodstuffs intended for particular nutritional purposes that are reimbursed from public funds. The official (fixed) price for a particular product is determined in an administrative decision of the Minister of Health granting reimbursement status to a specific product (possible refund levels: full refund, lump-sum charge, 50% refund and 30% refund). Under the Act on Reimbursement for Medicinal Products, Medical Devices and Foodstuffs Intended for Particular Nutritional Purposes Act of 12 May 2011, the prices of reimbursed products are official and fixed at all levels of distribution, i.e. at the level of manufacturer, wholesaler and pharmacy. An exception to this is supplies of medicinal products from manufacturers to public hospitals; in these cases, products are sourced within public procurement tenders and prices may be lower.

Because of the fixed prices, no discounts may be given to wholesalers, pharmacies, or patients.

Another result of this legal and economic arrangement is that the margins which wholesalers and retailers (pharmacies) may earn on sales of reimbursed products are also fixed. Furthermore, wholesalers and retailers cannot compete on the market through pricing of reimbursed products.

The list of reimbursed products is published by the Minister of Health. The list is regularly reviewed and revised, often upon application from producers and distributors of medicines and medical products which are subject to official prices.

Energy

Suppliers of electricity and gas for consumers are required to file their tariffs with the president of the Energy Regulatory Office for approval, unless they have been released from this obligation. Prices for supply of electricity and gas for business is the subject of liberalisation and free market competition.

Distribution system operators and transmission system operators must always file their tariffs for approval. The office also approves rates for heat. The tariffs specify the conditions for charging prices and fees by energy companies. The rates are calculated to assure that the reasonable economic costs of the companies are covered, as well as justified development plans, while also protecting the interests of customers against unjustified prices. The rules for establishing the tariffs are set forth in executive regulations to the Energy Law. The administrative bodies with authority in this area are the Minister of Climate and Environment and the president of the Energy Regulatory Office.

The current geopolitical situation and ongoing war between Russia and Ukraine provoked a significant rise of electricity, gas and coal prices. The latest legislation sets price caps on electricity and gas for the end users most vulnerable to unpredictable price fluctuations.

At the same time, a kind of windfall tax was introduced to finance price caps. It consists of transferring 100% of the income from the sale of electricity and gas above a certain level to the Price Difference Payment Fund, with certain subject-matter and entity exceptions. The specified level of revenue on which the windfall tax is imposed varies for different electricity generation technologies.

This may affect how the final prices of electricity, gas and heat are shaped right now and in the upcoming year.

Telecommunications and post

Fees for postal services are established by postal operators, based on the costs of providing services. The rates for postal services must be approved by the president of the Office of Electronic Communications, who also exercises oversight over rates and services offered by telecoms.

Transport

Official prices may also be set by local governments for public transit services and for taxis operating within the locality.

Other

Additionally, in the event of specific threats to the proper functioning of the state economy, the Council of Ministers may issue a regulation identifying goods or services subject to official prices. The Minister of Finance then

issues a regulation establishing the official prices and sales margins for such goods and services.

Unless otherwise specified by statute, official prices and sales margins represent the legal maximum.

10. Cessation or termination of business

Termination

The costs of winding up a business depend on the legal form used.

In the case of liquidation of a partnership (registered partnership, professional partnership, limited partnership or joint-stock limited partnership), there is a fee for delisting the partnership from the National Court Register of PLN 400

In the case of liquidation of a company (limited-liability company, joint-stock company or simple stock company), there are additional fees of:

- about PLN 350 for registering opening of liquidation at the registry court
- about PLN 500 for publication in the official journal *Monitor Sądowy i Gospodarczy* of opening of liquidation and the summons to creditors to present their claims for payment.

The business will also incur costs for closing down the business, terminating contracts, shutting the office, paying the liquidator's fee, archiving documentation and so on.

The duration of the liquidation process also depends on the legal form.

In the case of a partnership, there is no stated duration of the process, but it depends on the partners and the terms of the partnership agreement. Liquidation is effective upon delisting from the National Court Register.

In the case of a company, the announcement published in *Monitor Sądowy i Gospodarczy* will summon the creditors to submit their claims. Then the liquidators should wind up the company's current business, collect receivables, discharge obligations and liquidate the company's assets. After claims are satisfied or secured, the remaining assets are divided among the shareholders, no earlier than three months after the summons is issued to creditors in the

case of a simple stock company, six months in the case of a limited-liability company, or one year in the case of a joint-stock company (in which case two announcements are required, and the earliest distribution date is counted from the second announcement). Liquidation of the company occurs upon delisting from the National Court Register.

When a company enters liquidation, the phrase “in liquidation” (w likwidacji) is appended to the company name. This signals to potential customers or suppliers that the company intends to go out of business and thus is not entering into new business.

No government approval is required to liquidate a company, but termination of the existence of the company requires issuance of the decision of the registry court deleting the company from the commercial register. In the case of commercial companies, deletion from the National Court Register is a necessary element of winding up the business. If the liquidation was not conducted lawfully, the court can refuse to delist the company, which may result in liability of persons acting for the company.

In the case of a sole proprietorship or partners of a civil partnership, where natural persons are entered as business entities in the Central Registration and Information on Business (CEIDG), winding up the business involves delisting from CEIDG. This should be done at the latest on the next business day after the application is filed.

A sole proprietor continues to be liable without limit for the obligations of the business after winding up.

Partners whose liability was unlimited in a partnership (partners in a registered partnership or professional partnership, and general partners in a limited partnership or joint-stock limited partnership) continue to be jointly and severally liable for the obligations of the partnership after winding up.

In the case of companies, the liquidation cannot be closed until all creditors have been satisfied, or cash or security has been submitted to a court deposit to secure satisfaction of the creditors. Under certain circumstances, the liquidator or members of the management board who were serving at the time that obligations arose may be liable for the company’s obligations.

An employer winding down its business is required to terminate all employment contracts and, within 7 days, deregister the employees with the Social Insurance Institution (ZUS). The employer should also deregister with ZUS

as a remitter of social insurance contributions. When employment contracts are terminated for reasons attributable to the employer, typically some severance pay will be due; the amount is set forth in the labour law and depends on the employee's salary.

In the case of liquidation, it is also required to indicate an entity that will store company books and documentation, including employment documentation (if applicable) and set aside funds for this purpose.

This is just an overview of liquidation and does not cover all of the issues that may arise.

Insolvency

The Bankruptcy Law which entered into force on 1 January 2016 constituted a major amendment of the act in force until then (Bankruptcy and Recovery Law of 2003). 2016 also saw the introduction of the Restructuring Law, which incorporated the idea of a debtor reaching an arrangement with creditors as a method of dealing with debt prior to opening proceedings. The Restructuring Law covers four separate pre-insolvency proceedings aimed at avoidance of the debtor's bankruptcy. The restructuring procedure applies to debtors who are already insolvent or those whose economic situation indicates potential insolvency in the near future. The Bankruptcy Law governs bankruptcy proceedings, regardless of corporate form, including bankruptcy by sole proprietors and partners in an ordinary partnership, as well as personal bankruptcy. The main objective of the bankruptcy proceeding is to liquidate the debtor's assets, by way of selling its business as a going concern or, if that is not possible, by selling parts of its business or individual assets or rights, and to satisfy creditors. This process is transparent because the sale needs to be made through an auction or call for tenders. In some situations, the official receiver can be authorised by the council of creditors (or if there is no such council established, by the judge-commissioner) to negotiate the sale with a single-source buyer. The Bankruptcy Law also allows pre-packaged sales whose terms need to be approved by the court. Moreover, if a pre-packaged sale is made to a related party, it has to be based on an official valuation by a court-appointed expert.

The court will declare a debtor's bankruptcy when the debtor becomes insolvent. A debtor may be insolvent either due to cash-flow problems, if the debtor has lost the ability to service claims on a permanent basis, or because the debtor (who under law can be organised either as a legal entity or as an

entity without legal personality) has liabilities whose value is higher than the (market) value of its assets and this situation is sustained for longer than 24 months. The Bankruptcy Law also introduced two presumptions that the debtor may challenge in court. The first presumption is that the debtor is not capable of repaying its overdue debt if it is late with its repayment of debt for longer than three months. The second presumption is that the value of the debtor's monetary liabilities surpasses the value of its assets when balance-sheet figures (excluding reserves for liabilities and liabilities towards the debtor's related entities) surpass the value of its assets and that situation lasts longer than 24 months. A debtor is declared bankrupt by a court order. When operating as an entity with legal personality (e.g. a limited-liability or joint-stock company), the debtor is liable to creditors with all its assets. Sole proprietors are personally liable to their creditors, as are partners in partnerships. There are several types of partnerships, and the rules of liability in case of bankruptcy vary from one type to the next.

The Bankruptcy Law classifies creditor claims with priority of their satisfaction from the liquidated estate into four ranks. The ranking applies to unsecured creditors. The law treats secured creditors differently from unsecured (the so-called "right of separation") by allowing secured creditors to be satisfied from proceeds generated by the sale of their collateral (subject to certain statutory deductions and limitations mostly related to participation in costs of proceedings).

Notwithstanding the Restructuring Law and the Bankruptcy Law, in case of distress (but still solvent), debtors organised in the forms of companies must also follow provisions of the Commercial Companies Code. In accordance with these rules, company management boards are required to convene a shareholders' meeting whenever a statutory threshold of balance-sheet losses is exceeded. The shareholders' meeting must then decide whether the company should be liquidated (or restructured). The Commercial Companies Code regulates the winding-up and liquidation of a solvent company. If a company becomes insolvent during the process of liquidation, its liquidators have a duty to file a bankruptcy petition. When this occurs and bankruptcy is declared, the company's liquidation takes place according to the Bankruptcy Law.

Under the Bankruptcy Law, each formal representative of the debtor (for example, each management board member in a company) has a statutory duty to file for the debtor's bankruptcy within 30 days after the debtor becomes insolvent. Failure to file a bankruptcy petition in due time exposes the debtor's representatives to personal civil liability for damage caused to creditors, as well as possible criminal liability. The Bankruptcy Law presumes that the

value of damage caused to a creditor is equal to the value of that particular creditor's unsatisfied claim. A ban on business activity from one to ten years and membership in boards of companies may also be imposed on such representative.

On 1 December 2021, significant amendments were introduced to the proceedings for approval of an arrangement in the Restructuring Law, making them the most popular and effective restructuring proceedings in Poland (in 2022 they constituted 90% of all restructuring proceedings opened in Poland). Together with changes in the procedure for approval of an arrangement, the National Register of Debtors (KRZ) was established. It is a source of information on ongoing bankruptcy and restructuring proceedings, as well as a repository of electronic files of these proceedings. Within the new proceedings for approval of an arrangement, the debtor, with the help of a restructuring adviser, presents creditors with arrangement proposals, collects their votes and, only at the end, applies to the court for approval of the arrangement, which has already been voted on. The proceedings are opened automatically by publishing an announcement in KRZ, indicating the debtor's details, the arrangement date, and the arrangement supervisor with whom the debtor has concluded an agreement to supervise the proceedings.

From the debtor's perspective, the advantage of proceedings for approval of an arrangement is far-reaching protection against court enforcement by both unsecured and secured creditors. From the announcement of opening of proceedings until their completion or discontinuance, existing enforcement proceedings are stayed by operation of law and no new proceedings may be instigated against the debtor. Significantly, the debtor's protection against enforcement arises automatically upon publication of the announcement on opening of a given restructuring procedure. In addition, during the pendency of proceedings for approval of an arrangement, it is prohibited to terminate key contracts concluded with the debtor, including rental, tenancy, leasing or loan agreements.

Another new feature is the possibility to include in the arrangement a claim secured against the debtor's assets without the in rem creditor's consent. However, a condition is that the creditor is presented with an arrangement proposal providing for full satisfaction of the claim along with any incidental amounts provided for in the agreement which is the basis for establishing the security (regardless of whether the agreement, e.g. loan agreement, has been terminated or has expired), or satisfaction to an extent not less than could have been obtained in satisfaction of the claim from the collateral.

An important solution in the post-pandemic era is the ability to remotely conduct a creditors' meeting to vote on the arrangement with the use of electronic communications available via KRZ. The traditional formula of a meeting chaired by the arrangement supervisor is also acceptable.

A strict timeframe applies to the new proceedings for approval of an arrangement. The application for approval of the arrangement must be submitted to the court no later than four months after announcement of the proceedings in KRZ.

11. Labour legislation, relations, and supply

Sources of employment law

Employment relations and the duties of employers and employees are governed by numerous laws, including:

- Labour Code of 26 June 1974
- Act on Specific Rules for Terminating Employment on Grounds Not Attributable to the Employee of 13 March 2003
- Act on Notification and Consultation of Employees of 7 April 2006
- Trade Unions Act of 23 May 1991
- Act on Resolving Collective Disputes of 23 May 1991
- National Minimum Wage Act of 10 October 2002
- executive regulations issued pursuant to these laws, e.g.:
 - ♦ Regulation of the Minister of Labour and Social Policy of 15 May 1996 on the Manner of Justifying Absences from Work and Issuing Exemptions from Work
 - ♦ Regulation of the Minister of Family, Labour and Social Policy of 30 December 2016 on the Certificate of Employment
 - ♦ Regulation of the Minister of Family, Labour and Social Policy of 10 December 2018 on Employment Documentation.

Employment relations are also governed by internal regulations adopted at a given workplace, such as collective bargaining agreements or work and pay regulations.

Labour availability

Labour availability varies across industries, but, generally, both skilled and unskilled workers can be found in Poland for jobs across the full range of industries.

Nationality of employees

There are no regulations in force in Poland that expressly require an employer to hire Polish citizens, except when a labour market test is required. In such case, prior to hiring a foreigner from a non-EU/EEA member state, the employer has to obtain confirmation from the district labour office that there is no eligible Polish or EU national suitable to fill the position (there is a chance that this obligation will be eliminated by the new law that is being prepared). The requirement for candidates or employees to hold Polish citizenship may be applied only to specific employment positions related to the exercise of public functions, e.g. in the civil service.

Employment of foreigners in Poland is subject to certain restrictions; in particular, depending on citizenship, a work visa or work permit may be required.

Minimum wage: The legal minimum monthly wage is set by a governmental regulation each year, and in 2023 is PLN 3,490 gross. As of 1 July 2023 the minimum wage will increase to PLN 3,600 gross. Polish law also sets a minimum hourly rate for civil-law contracts (PLN 22.80 gross in 2023 and, from 1 July 2023, PLN 23.50) that also applies to contractors.

Working time: Generally, employees' working time cannot exceed an average of 8 hours per day and 40 hours per week in an average 5-day work week in a reference period not exceeding 4 months. Employees are also entitled to at least 11 hours of uninterrupted rest each day and at least 35 hours each week including Sunday. Labour law regulations governing working time admit numerous departures from these norms (however, the average of 40 hours per week must always be reached over a reference period), e.g. extension of the workday to as long as 24 hours and extension of a reference period up to 12 months.

If the working time adopted in the given system is exceeded, employees have to be paid overtime or granted additional time off from work. Weekly working time, including overtime, may not exceed an average of 48 hours over the adopted reference period. This restriction, and the rules concerning minimum

periods of rest, do not apply to staff managing the workplace for the employer. Staff managing the workplace for the employer, as well as managers of distinct organisational units, may, if necessary, work outside normal working hours without any right to overtime or other additional pay. However, managers of distinct organisational units are entitled to overtime pay for work on Sunday or a public holiday, if they did not receive a day off in lieu.

Annual holiday

Employees are entitled to annual holiday leave of 20 days per calendar year if employed less than 10 years, or 26 days if employed for 10 years or more. The employment period serving as the basis for calculating the length of annual leave includes not only the length of employment at the given employer's but also prior employers and certain educational periods; for example, staff who have completed university-level studies are for this purpose credited with 8 years of employment.

Employees can take annual holiday leave at a time agreed with the employer. Leave may be divided into portions, but in such case at least one portion of the leave must last no less than 14 successive calendar days.

The employer is required to give employees annual leave during the calendar year in which the employee earned the right to this leave. Unused leave should be given to the employee not later than 30 September of the following calendar year. A cash equivalent for unused leave may be paid only when leave is not taken because of termination or expiration of employment.

Sick leave

Employees are entitled to be absent from work for the entire period of being sick, but only on the basis of a doctor's certificate. However, when sickness causes the employee to remain absent from work for an extended period (usually over 6 or 9 months), the employer has the right to terminate the employee's contract effective immediately.

When employees are unable to work because of sickness, they remain entitled to their salary during the period of sickness, paid by the employer, for up to 33 days in the calendar year. Employees who are 50 or older are entitled to receive their salary for up to 14 days of being sick. After that period, employees

who are still unable to work become entitled to sickness benefits and then rehabilitation benefits, which are both paid by the social insurance fund.

Hiring and firing requirements

Concluding contracts

People in Poland can be hired to work either under an employment contract or, if the person is a freelance contractor, under a civil-law contract. However, it is illegal for the employer to conclude a civil-law contract instead of an employment contract if the candidate will be working in a job normally requiring an employment contract. The regulations and protection measures discussed in this section refer to work done under an employment contract, not freelance work done under a civil-law contract.

Employment contracts are classified on the basis of their duration, which depends on the future employee's agreed role and duties. Polish labour law provides for the following types of employment contracts:

- contract of employment for an indefinite term
- contract of employment for a definite term
- contract of employment for a trial term.

Definite-term contracts may generally last up to 33 months, and the total number of definite-term contracts signed between the same parties cannot exceed three. These limitations are excluded in some cases, for example with respect to replacement contracts and seasonal workers' contracts, or when objective reasons justify definite-term employment.

When hiring staff, employers are required to enter into a written employment contract with each new employee. If the employment contract is agreed on verbally, employers are required, not later than before commencement of work by the employee, to provide him or her with written confirmation of the type of contract and its terms. Employment contracts must specify the parties and the contract type, the date it is signed and the contractual terms of work and pay: type of job, place where it is performed, salary, working time and starting date. Definite-term employment contracts must also provide an objective justification for staff working under successive definite-term employment contracts for longer than 33 months.

Employers are also required to notify their employees in writing, no later than 7 days after signing an employment contract with them, of how many

hours they are expected to work per day and per week, how often and when they will be paid, how much annual leave they will receive, how much notice of employment termination they are entitled to, whether they are protected under a collective labour agreement, and, if their employer is not required to implement working regulations in its business (usually because the business is too small), also provide additional information concerning working night shifts, where and when their salary will be paid, and how their arrival to and departure from work will be recorded, and what circumstances will justify their absence from work.

Internal regulations

Polish law does not set any minimum number of staff that an employer must hire. However, when the number of staff is 50 or more (regardless of the type of contracts under which they are working), the employer is required to adopt work and pay regulations. Below 50 employees, an employer can decide whether to adopt such regulations or not, unless a trade unions requests it and the employer has at least 20 employees, when adopting the regulations becomes mandatory.

If an employer has at least 50 staff (full-time equivalent positions) on 1 January of a given calendar year, the employer is required to create a social fund and adopt social fund regulations (Polish law allows an opt-out from this obligation).

Equal treatment and personal data

When hiring staff, the employer is required to comply with the rules of equal treatment and personal data protection. These regulations restrict the information an employer can require from an applicant to name, date of birth, contact details, and, when necessary to perform work of a specific kind or in a specific position, education, qualifications, previous employment; and, from current employees only, additionally:

- residence address
- PESEL identification number, or, in the absence thereof, type and number of an identity document
- other personal data of the employee and personal data of their children and other members of their immediate family, if such data is necessary for the employee to exercise special entitlements provided for in the labour law
- education and employment history, if there were no grounds to request this data from the applicant for employment
- payment account number, if the employee did not request to be paid in cash.

Other personal data may be requested only when necessary to exercise a right or fulfil an obligation under the law, or upon consent.

Medical examination and health and safety training

Before starting work, new employees must be sent by their employer for a pre-employment medical examination to determine whether there are any medical reasons why the employee should not perform particular types of work. New employees must also undergo training in occupational health and safety. Employers are also required to undergo occupational health and safety training insofar as it is necessary to carry on their duties. This training is refreshed periodically.

Social insurance

Employers are required to register their new staff with the Social Insurance Institution (ZUS) within 7 days after they begin work.

Starting from 1 January 2021 employers must maintain an employee capital plan (form of accumulating funds for old-age pension) and conclude an individual agreement for each employee with at least 3 months' seniority at a given company on operation of such a pension plan with a selected financial institution (unless the employee makes a written declaration of non-participation), and then calculate, deduct and pay contributions to the plan.

Terminating employment contracts

As with hiring staff, there are also legal requirements imposed on employers for terminating employment contracts. Labour law provides for three main employment contract termination methods.

Employment termination by mutual agreement

An employment contract of any type may be terminated at any time by agreement between the parties. This method does not require the employer to consult the local trade union or justify the termination. This method may be also used when letting go "protected" employees, i.e. employees who are approaching the age of retirement, are on holiday leave or are pregnant. This is also the advisable manner of terminating employment contracts, as it eliminates the right to appeal to the labour court.

Employment termination by notice

length of employment at the given employer: 2 weeks if employed less than 6 months, 1 month if employed 6 months or more but less than 3 years, or 3 months if employed 3 years or longer.

In the case of trial-term employment contracts, the termination notice period is 3 working days if the trial term is 2 weeks or less, 1 week if the trial term is longer than 2 weeks but less than 3 months, or 2 weeks if the trial term is 3 months (which is the maximum permissible length of trial-term employment—which, additionally, as a rule can be applied only once between the parties, unless there was at least a 3-year gap between the contracts or the job type is changed).

Employment termination notices must be in writing and include a note to the effect that the employee is entitled to challenge the notice in labour court. The notice may be served on the employee personally or by post or courier against a return receipt.

When terminating an indefinite-term employment contract, the notice must in addition state the grounds for termination. These grounds may be attributable to the employee (e.g. unsatisfactory performance) or the employer (e.g. financial difficulties or elimination of the position). When terminating a definite-term or trial-term employment contract by notice, it is not necessary to state the grounds for termination.

If a trade union is operating at the given employer, the employer is obligated to inform it in writing of its intention to terminate an employee's indefinite-term contract by notice. The union has 5 days to raise objections. The purpose of notifying the union is only informative, and the employer can terminate the contract despite union objections (except for termination of trade union leaders).

Termination of employment contract without advance notice

The Labour Code contains an exhaustive list of the grounds on which employers can terminate employment contracts without observing the advance notice period—i.e. with immediate effect (also referred to as “disciplinary firing”). These include the following cases:

- the employee is found guilty of a major breach of basic employment duties

- the employee commits a criminal offence during the term of employment which makes it impossible to keep him or her in the current position, if guilt is evident or was determined by a final court judgment
- the employee ceases to be qualified for the position they currently hold through their own fault.

Employers can terminate employment contracts without prior notice due to the employee's fault within one month of learning of the circumstances justifying termination.

If a trade union is operating at the given employer, the employer is obligated to inform it in writing of its intention to terminate an employee's contract without advance notice. The union has 3 days to raise objections. The purpose of notifying the union is only informative, and the employer can terminate the contract despite union objections (except for termination of trade union leaders).

It is also possible under Polish law to terminate an employment contract without advance notice when the employee is not at fault but has been absent from work because of illness or for other justified reasons for longer than the period allowed by law (usually 6 or 9 months). Such termination may not take place when the reason for the employee's absence is no longer present and the employee has reported for work.

In any event, the employment contract termination notification must be in writing, state the grounds for termination, and include a note on the employee's right to challenge the termination in labour court. The notice may be served on the employee personally or by post or courier against a return receipt.

Protection from dismissal

Some categories of employees are protected from dismissal, e.g. pregnant employees, employees on maternity or parental leave, employees who are eligible for retirement within 4 years, etc. There are some cases where this protection does not apply, e.g. when implementing collective or individual redundancies (discussed below), or when the employer is in bankruptcy or liquidation.

Obligations after termination

Generally, labour law does not impose on employers any duties with respect to their staff after termination of their employment, except to issue them an employment history certificate and within 7 days to take the employee off the social insurance premium contributors' list.

However, when employment is terminated under the group layoff procedure and subsequently the employer hires staff for the same positions, it is required to give priority in hiring to former employees who declare their desire to be rehired within 1 year from termination. Rehiring in such case must occur within 15 months from termination.

There is a similar requirement when termination is due to the employee having been absent from work for 3 months spent in temporary detention.

Employee training

Polish labour law does not impose any duties on employers to train their employees, except for the occupational health and safety training mentioned below. Under the Labour Code, however, the employer should help staff improve their professional qualifications in the spirit of the corporate policy of equal treatment.

Employees who undergo additional training to improve their professional skills at the request or with consent of the employer are entitled to paid training leave under the Labour Code and paid time off from work during a workday for the time necessary to travel to and attend mandatory classes. The employer may also provide additional benefits to employees in training, particularly training fees, textbooks, travel and lodging.

When the employer sends employees for training or other form of raising professional qualifications, the employer and these employees may enter into a separate agreement requiring employees to stay at the employer for up to 3 years after training, and in the circumstances described in the Labour Code (e.g. training was not finished, the employee no longer works at the employer or was fired by the employer under disciplinary charges), the employer may claim reimbursement of the training costs it financed.

Safety standards

The occupational health and safety regulations are set out in the Labour Code and accompanying executive regulations, such as the Regulation of the Minister of Labour and Social Policy of 26 September 1997 on General Provisions for Occupational Health and Safety.

Employers are responsible for occupational health and safety and have numerous duties in this respect. Compliance is enforced by frequent inspections.

Trade unions

The unionisation level in Poland is generally low, and trade unions are mainly present in state-owned companies or the public sector (e.g. education, mining and healthcare). Trade unions enjoy significant entitlements and protection rights. They are vested with broad authority as concerns protection of employee interests, the right to strike, the right to consult on health and safety, and salary and working time rules.

The largest trade union operating in Poland is Solidarity (NSZZ Solidarność). There are branch unions acting for specific employee groups (e.g. coal miners or nurses), but they do not automatically cover workers belonging to specific trades. Employers are not required to work together with trade unions in their industry if their staff are not members of the unions or are not covered by their actions.

A trade union may be established at the given workplace and will cover the given employer under a resolution to establish a union local adopted by at least 10 staff members (both employees and civil-law workers) of that employer authorised to form a trade union. Employers may also be covered by the actions of a trade union operating at a level higher than a single workplace, even when it does not have a local at the employer, if at least one member of the employer's personnel joins that union.

Trade unions operating in Poland are independent and self-governing, and therefore, as a rule, they are apolitical.

Employers are neither entitled nor required to establish or organise trade union activities. Trade unions are established and operate on the basis of freedom of association.

However, employers are required to ensure that trade unions can act freely, specifically by providing them with information necessary to conduct union activity and with office space and office equipment, by granting leave to union officers when necessary, and by respecting the protection against firing enjoyed by certain trade union activists.

In Poland, collective labour agreements do not automatically cover all workers within the given industry. For an employer and its staff to become parties to a collective labour arrangement, an agreement must first be negotiated and adopted between the trade union and the employer.

Under certain circumstances, upon joint application by an employer organisation and trade unions operating at a level higher than a single workplace which have entered into a labour agreement covering several workplaces, the Minister of Labour may issue a regulation extending the agreement or a part thereof to the personnel of an employer not covered by any broader labour agreement but whose operations are the same as or similar to those conducted by employers covered by the agreement.

12. Polish tax system

Any public charges in Poland may be imposed only by a legal act with the rank of a statute adopted by the Parliament. Taxpayers have an opportunity to obtain individually binding interpretations of tax law.

A number of anti-tax-avoidance measures have been introduced into the Polish tax system, including GAAR, SAARs, MDR, CFC, exit tax and additional tax liability.

Poland has a well-developed system of treaties on avoidance of double taxation. Some of them, for example the treaty with Cyprus, in spite of recent amendments to this treaty, may constitute an effective tax planning instrument.

Poland has tax treaties with the following countries:

Albania	Indonesia	Qatar
Algeria	Iran	Romania
Armenia	Ireland	Russia
Australia	Isle of Man (limited scope)	Saudi Arabia
Austria	Israel	Serbia
Azerbaijan	Italy	Singapore
Bangladesh	Japan	Slovakia
Belarus	Jersey (limited scope)	Slovenia
Belgium	Jordan	South Africa
Bosnia & Herzegovina	Kazakhstan	South Korea
Bulgaria	Kuwait	Spain
Brazil	Kyrgyzstan	Sri Lanka
Canada	Latvia	Sweden
Chile	Lebanon	Switzerland
China	Lithuania	Syria
Croatia	Luxembourg	Taiwan
Cyprus	Malaysia	Tajikistan
Czech Republic	Malta	Thailand
Denmark	Mexico	Tunisia
Egypt	Moldova	Turkey
Estonia	Mongolia	Ukraine
Ethiopia	Montenegro	United Arab Emirates
Finland	Morocco	United Kingdom
France	Netherlands	United States
Georgia	New Zealand	Uruguay
Germany	Nigeria	Uzbekistan

Greece	North Macedonia	Vietnam
Guernsey	Norway	Zambia
Hungary	Pakistan	Zimbabwe
Iceland	Philippines	
India	Portugal	

Poland has signed 15 agreements on exchange of information (including FATCA), of which 10 are already in force.

Corporate income tax

The standard 19% CIT rate serves as a form of incentive for investors. The reduced 9% CIT rate applies to small taxpayers (annual revenues below EUR 2 million). The IP Box (5%) applies to income from certain IP rights. Taxpayers for CIT purposes are:

- legal persons, including joint-stock companies, simple stock companies and limited-liability companies
- joint-stock limited partnerships (*spółki komandytowo-akcyjne*)
- limited partnerships (*spółki komandytowe*)
- general partnerships (*spółki jawne*) unless all partners are individuals or other conditions are met
- organisational units without legal personality, except for partnerships (other than mentioned above).

Foreign partnerships are considered taxpayers for CIT purposes with respect to income earned in Poland, provided that in the country where they have their registration or management they are treated as legal persons and are subject to taxation on all their income, wherever earned.

With respect to the subject matter of taxation, the following are subject to CIT:

- all income, wherever earned (residency principle), in the case of taxpayers with their registered office or management in Poland, or
- only income earned in Poland (source principle—this applies, among other item, to passive income, income from real property and capital gains from

sale of land-rich companies), in the case of taxpayers that do not have their registered office or management in Poland.

These rules may be modified by tax treaties to which Poland is a party, or by EU regulations (see below).

Sources of income

Income may be earned from two sources: capital gains and other activities.

Income from capital gains includes, among other items, income from dividends, redemption of shares, liquidation, mergers and divisions, shares, including sale or disposal for redemption and exchange of shares, contributions in kind, the sale of all rights and obligations in a partnership (not a legal person), the sale of receivables previously acquired by the taxpayer and receivables arising from revenues included in capital gains, property rights (copyright and related property rights, licences, industrial property rights and know-how), excluding revenues from licences directly related to obtaining revenues not included in capital gains, from securities and derivative financial instruments, excluding derivative financial instruments used to secure revenues or costs not included in capital gains, from participation in investment funds, lease, tenancy or other similar agreement concerning rights specified in the first three points above, as well as revenues from their disposal, etc.

All revenues not listed in the catalogue of revenues from capital gains constitute revenues from other activities.

Taxpayers must classify given revenue to one of the two sources. Tax-deductible costs should be appropriately allocated to respective revenues from one of the two sources.

A loss incurred within one source of income cannot be set off against income from another source. A loss from a given source of income may be deducted only from income generated within the same source of income.

Tax basis

The basis for taxation is generally income, understood as the difference between revenue and revenue-earning costs.

Revenue-earning costs are costs incurred for the purpose of achieving revenue or maintaining or securing a source of revenue, so long as they are not

included in the list of expenditures that are excluded from revenue-earning costs.

Typical revenue-earning costs thus include such items as expenditures by an employer on employee salaries and pension schemes, royalties and licence fees, expenditures on raw materials, and so on.

Costs incurred to acquire or create fixed assets (e.g. buildings, machinery and vehicles) and intangibles (e.g. copyright) with an initial basis of over PLN 10,000 are generally subject to depreciation and amortisation, respectively.

The rule is straight-line depreciation. The taxpayer may elect the declining-balance method, subject to certain restrictions (e.g. it may not be used for intangibles). Once a depreciation method has been adopted, it must be carried forward until the fixed asset is fully depreciated.

Revenue-earning costs generally do not include:

- VAT (with certain exceptions)
- interest on loans barred by interest deductibility rules (see below)
- costs of increasing the company's share capital.

Revenue-earning costs directly tied to revenue (e.g. expenditures for raw materials used to create goods sold) are generally deducted during the tax year in which the corresponding revenue is earned. Indirect revenue-earning costs (e.g. general administration) are generally deducted as of the date they are incurred.

Payments in excess of PLN 15,000 should be made via a bank account, or will not be deductible for tax purposes.

Minimum CIT (tax on buildings)

This tax obligation applies to taxpayers that own buildings in Poland that generate revenues under a contract of lease, rent, or other contract of similar nature. The taxable base is the initial tax value of the building, less PLN 10 million. The tax rate is 0.035% monthly of the initial tax value of the building/real estate.

Regular advance payments for CIT are deducted from the minimum tax, i.e. tax is paid by taxpayers who show a loss or whose regular CIT liability is lower than the calculated tax on income from buildings.

A taxpayer who correctly calculated tax liabilities for a given year and determined costs and revenues at the market level, especially costs of acquired financing, may obtain a refund of minimum real estate tax.

Interest deductibility

Under current rules, net borrowing costs are deductible against income only up to PLN 3 million or 30% of a taxpayer's tax EBITDA. In any case, net borrowing costs are entirely deductible, provided that they do not exceed PLN 3 million.

Minimum income tax

As of 2022, a new minimum income tax of 10% of the tax base was introduced covering companies which are Polish residents, as well as tax capital groups which

- incur losses from a source of income other than capital gains, or
- report a certain low profitability ratio within their operating activities resulting from the ratio of income to deductible expenses.

The minimum income tax also applies to non-residents conducting business through a foreign permanent establishment located in Poland, to the extent that the income earned and losses incurred are related to the activities of the permanent establishment. As a rule, the tax base is the sum of the amounts specified in the act, which may consist of:

- 1.5% of the value of income from a source of income other than capital gains
- debt financing costs paid to related parties
- as well as costs paid to related parties (entities from a country or territory with harmful tax competition) for the acquisition of certain services or intangible rights.

The values reducing the tax base are:

- any statutory deductions that reduce the tax base
- revenues included in the calculation of tax-exempt income from activities in a special economic zone or the Polish Investment Zone, and
- certain revenues listed in the minimum tax provisions.

Application of the minimum income tax regulation was suspended in 2022 and 2023. For the time being, it is planned to apply these provisions from 1 January 2024.

Diverted profits

As of 2022, a 19% tax on diverted profits of Polish tax residents was added to the CIT Act. Diverted profits are considered to be expenses recognised as tax-deductible costs paid by a Polish taxpayer to a related entity not having its registered office or management in Poland, if certain conditions are met.

The costs referred to in above include, among other things, advisory services, advertising services, management and control, data processing, insurance, guarantees, warranties and services of a similar nature, fees and charges for the use or right to use rights or intangible assets, debt financing costs, and fees for the transfer of functions, assets or risks.

The tax base is the sum of the diverted profits in the tax year, and in the case of a tax capital group, the sum of the diverted profits in the tax year of the companies forming the group.

Losses

If a taxpayer generates a loss in a tax year from a give source of income, the loss may be carried forward over the next 5 tax years, but no more than 50% of the loss may be utilised in one tax year. A one-off loss write-off is allowed up to PLN 5 million.

Exemptions and tax breaks

The CIT Act and separate acts provide for an extensive set of tax breaks and exemptions. Some of them include:

- exemption for investment funds and pension funds
- exemption for operations in the Polish Investment Zone.

At the moment, income tax exemptions include:

- IP Box
- R&D relief

Withholding tax (WHT)

Polish CIT regulations generally provide for the need to withhold tax at source on earned income, whether paid to Polish recipients (dividends) or foreign recipients (dividends, interest and royalties).

In light of the extensive system of tax treaties and EU regulations, there are many restrictions on imposition of tax in this respect. As a rule, certain formal conditions need to be met in order to apply the reduced tax rate or exemption resulting from a treaty or implementation of EU law (e.g. usually a tax residency certificate of the recipient and certain statements must be provided).

Moreover, a taxpayer is obliged to demonstrate due diligence in verifying the possibility of applying a reduced tax rate or an exemption in respect to payments subject to WHT.

As of 2022, a new mechanism for settling withholding tax was introduced (pay & refund mechanism). It applies to payments of dividends, interest and royalties exceeding PLN 2 million per year to a related entity. The WHT agent is required to collect tax based on the domestic WHT rate at the moment of making the payment. Subsequently, the taxpayer or tax remitter (depending on gross-up arrangement) is entitled to apply for a refund.

In the case of payments that do not fall within the scope of the mandatory pay & refund mechanism, the WHT agent will still be entitled to apply a reduced rate or exemption from WHT under the existing rules (provided that other conditions for application of such a reduced rate or exemption are met).

The new mechanism allows remitters to apply the exemption upfront to payments exceeding PLN 2 million per year if the management board members of the WHT agent sign a statement that they exercised due diligence and ensure that the conditions for WHT relief are fulfilled.

It is also possible to apply for an opinion of the tax authority on applicability of the WHT exemption.

WHT on dividends

Dividends paid by companies that are Polish tax residents are taxed at 19% of the revenue, and the tax is withheld at the source.

Dividends paid by Polish companies may enjoy relief partially arising under implementation of the Parent-Subsidiary Directive if certain conditions are met.

Taxation of dividends at the source may also be limited by a tax treaty. Most of the tax treaties entered into by Poland provide for taxation of dividends at the source, but at a rate lower than that normally provided by Polish law.

Some treaties provide for an exemption from taxation at the source if the recipient holds the required percentage of the share capital of the company paying the dividend.

WHT on interest and royalties

Interest and royalties paid by companies that are tax residents of Poland to non-resident companies are generally subject to taxation of 20% at the source.

The statutory rate of taxation at the source on interest and royalties may be exempt from taxation under regulations implementing the Interest and Royalties Directive (2003/49/EC), paid by Polish companies (or under certain conditions by a foreign establishment of a company from another EU member state), if certain conditions are met.

Tax treaties may also provide for reduction of the rate of taxation at the source, or even a complete exemption. Many of the tax treaties to which Poland is a party that reduce the tax rate also provide for an exemption from taxation at the source of certain types of interest, such as interest on bank loans.

With respect to royalties, tax treaties typically provide only for a reduction in tax rates. In addition, some tax treaties provide for an exemption for certain types of rights.

Capital gains tax

In Poland, capital gains are taxed at 19% and constitute a separate source of income (separated from business profits).

Under Polish tax treaties, capital gains are taxed only by the country where the recipient of the income has its residence. Nonetheless, in many treaties concluded by Poland there is a clause under which income from sale of shares in a company whose assets chiefly consist of real estate is taxed in the country where the real estate is located.

Additionally, effective as of 2021, there is a requirement for a real estate company to act as the remitter of income tax in the event of a disposal of its shares, even though the real estate company is only the subject of the transaction, not a party to it.

Transfer pricing

Polish transfer pricing regulations generally implement the OECD guidelines. Therefore transactions between related entities should generally be in line with market prices.

Operations of a subsidiary or branch

The chart below provides a comparison of the tax consequences of operations in the form of a permanent establishment (e.g. a branch) or in the form of a subsidiary.

Tax aspect	Establishment	Subsidiary
entity regarded as taxpayer	headquarters	subsidiary
corporate veil	does not apply	applies
entity liable for tax arrears in Poland	headquarters	subsidiary
cost-splitting among entities	possible (area of tax risk)	possible (area of tax risk)
transfer pricing rules	applicable	applicable
interest deductibility rules	applicable	applicable
tax at source	applicable, but subject to treaty or domestic relief, not applicable on payments to headquarters	applicable, but subject to treaty or domestic relief

Declarations and deadlines

CIT is calculated on an annual basis, but as a rule, taxpayers are required to pay monthly advances.

Annual tax returns and the tax due thereunder (the difference between the total tax and advances paid) for the whole year must be submitted and paid within 3 months after the end of the tax year.

The tax year is generally the calendar year, but taxpayers may elect another 12-month period as the tax year.

VAT

Polish VAT regulations implement the VAT system developed under EU law. A fundamental assumption of the system is neutrality: only added value is effectively subject to tax, as reflected in the rule of full deduction of input VAT on acquisition of goods and services used to conduct taxable activities.

VAT payers are legal persons, organisational units without legal personality (including partnerships), as well as individuals conducting economic activity for purposes of the VAT Act (which contains a broad definition of economic activity). In expressly provided instances, certain entities may be subject to VAT even though their activity does not fit within the definition of economic activity set forth in the act, and such entities generally are not VAT payers. Taxpayers conducting cross-border transactions within the EU must carry out an EU VAT registration.

The basic VAT rate is 23%, and is applicable to all goods and services unless the act expressly provides for application of a reduced rate (8%, 5% or 0%) or exempts the good or service from VAT.

Mandatory split payment applies to certain goods and services (for instance in the construction industry).

Reduced rates

The 8% rate applies to such items as processed foods and services related to transport, lodging and sport. The 5% rate applies to unprocessed foods, and the 0% rate applies mainly to export and intra-Community supply of goods.

Exemptions

Items exempt from VAT include:

- educational services provided by accredited suppliers
- medical services provided by medical professionals and healthcare facilities
- financial services
- sale of buildings and other structures or parts thereof, with certain exceptions.

Declarations and deadlines

VAT payers are required to file a monthly single audit file, unless they elect quarterly payments. The tax is due at the same time.

Taxpayers registered as EU VAT payers are required to file summary reports with the tax office.

If the input VAT for a given settlement period exceeds the output VAT, the surplus is carried over to the next settlement period, or the taxpayer has a right to seek a refund. The deadline for paying the refund is generally 60 days, but in some cases may be reduced to 25 days or extended to 180 days.

Excise tax

Excise tax is an indirect tax imposed on strictly defined consumption goods. Because excise tax is charged at only one level of turnover, there is no opportunity to subtract the excise tax paid from the excise tax due.

The following products are covered by excise harmonisation within the EU:

- energy products
- ethyl alcohol and alcoholic beverages
- tobacco and supplemental products
- electricity.

In addition, the Polish Parliament has decided to impose excise tax on certain activities related to new passenger cars (i.e. prior to initial registration).

If supply of goods is also subject to VAT, excise tax is included in the VAT base.

Tax basis

Methods for determining the basis for excise tax and the applicable rates are applied to specific excise goods. The rates may be:

- a lump sum, where the excise basis is determined based on product quantity (e.g. per MWh of electricity)
- a percentage, where the excise basis is the value of the good (applied only with respect to passenger cars); in certain instances the tax authorities may estimate the value
- mixed, i.e. combining a lump-sum element and a percentage element (applicable to tobacco products).

Real estate tax

Taxpayers for purposes of real estate tax are all legal entities that are owners (or exercise authority over real estate as owners) or perpetual usufructuaries of land, or holders asserting title to real estate, apart from agricultural and forest land unless it is used for economic activity. In certain instances other possessors of real estate may be required to pay real estate tax.

Taxpayers for purposes of real estate tax are all legal entities that are owners (or exercise authority over real estate as owners) or perpetual usufructuaries of land, or holders asserting title to real estate, apart from agricultural and forest land unless it is used for economic activity. In certain instances other possessors of real estate may be required to pay real estate tax.

The act defines only the maximum rates of real estate. The local authorities set the actual rate, which may be less. The tax basis is

- in the case of land, the area
- in the case of buildings, the usable area
- in the case of structures or parts thereof connected with conducting economic activity, the value that is the basis for depreciation (or otherwise the market value).

Among the entities exempt from real estate tax are research and development centres. Local authorities may also introduce other exemptions as a form of state aid. Exemptions for specific taxpayers are impermissible. Subject-matter exemptions typically require that certain investment or employment thresholds be met.

Declarations and deadlines

Legal persons and organisational units without legal personality (including partnerships) are required to file declarations for the given tax year by 31 January of the following year. Taxpayers are required to pay the tax in instalments by the 15th of each month.

Individuals are not required to file declarations, but they are required to file statements concerning events that may result in creation, amendment or expiration of the tax obligation. Individuals pay the tax in four instalments, in accordance with an assessment issued for the year. Given the constitutive nature of the assessment, individuals are not required to calculate real estate tax themselves.

Tax on civil-law transactions

Civil-law transaction tax (a type of stamp duty) is charged only on transactions specifically listed in the Civil-Law Transaction Tax Act. Any transaction that is not listed is not subject to the tax. Certain exemptions listed in the act may apply.

Among the most important transactions covered by the civil-law transaction tax are agreements on sale or exchange of property rights, loan agreements, and articles of association or amendments thereto. The rates vary depending on the type of transaction, for example 0.5% of the amount of a capital increase or loan, or in the case of sale of real estate, 2% of the market value.

Declarations and deadlines

In most instances the taxpayer is the party regarded as the acquirer (e.g. the buyer, or the borrower in the case of a loan). On amendment of articles of association, the company itself is the taxpayer.

The taxpayer is generally required to file a declaration and pay the tax within 14 days following the transaction. If the transaction is conducted in the form of a notary deed, the notary is required to collect and remit the tax.

Retail sale tax

Retail sales tax is imposed on the monthly revenue earned by retailers from sales of goods to consumers. The taxable base is calculated as the surplus of the revenue from retail sales (excluding VAT) exceeding PLN 17 million in a given month. The tax rate is 0.8% on the monthly revenue from retail sales exceeding PLN 17 million up to PLN 170 million, and 1.4% on the monthly revenue from retail sales in the part exceeding PLN 170 million..

Other business-related taxes

The taxes identified below are of relatively minor importance because of the insignificant tax levied or the limited scope of taxpayers affected:

- agricultural tax, charged on land classified as agricultural (including land covered by shrubs or woods), unless used for economic activity other than agriculture

- forest tax, charged on forest land, unless used for economic activity other than forestry
- tonnage tax, charged on specific types of income earned by shipowners operating seagoing vessels in international shipping
- transport tax, charged on vehicles of gross permissible weight above 3.5 metric tons.

Personal income tax

Personal income tax is generally due in Poland on:

- all income, wherever earned (residency principle), in the case of individuals who are Polish residents for tax purposes, i.e. who have the centre of their life interests in Poland or are in Poland for longer than 183 days within the tax year, or
- only income earned in Poland (source principle), in the case of other taxpayers, who are not Polish tax residents but earn income in Poland.

These rules may be subject to modification under tax treaties entered into by Poland.

Taxpayers for PIT purposes are individuals. Various types of income may be taxed separately, while income from certain sources may be added together and taxed jointly.

Income (understood, as with CIT, as the difference between revenue received and revenue-earning costs) is generally taxed at the following scale:

Tax basis	Rate applied
up to PLN 120,000	12%
above PLN 120,000	32%

Married couples have an option to file joint returns, and there is also a tax credit for persons raising children.

Individuals below age 26 are entitled to exemption of income up to PLN 120,000.

In-kind benefits provided by employer to employee are usually treated as part of the employee's salary, except for benefits which the employer is required to pay by law. In practice, this is an area subject to numerous controversies in the practice of tax authorities and in court decisions.

Business income

Income from business activity is subject to PIT according to the foregoing general tax scale. However, individuals conducting business may elect taxation of income at a flat rate of 19%. In light of the generally preferential nature of this rate, individuals conducting business who elect this system of taxation may not claim most other deductions or credits, and may not file joint marital returns.

In the case of a tax loss for the given year, the taxpayer may carry forward the loss over the next five years, but may not apply more than 50% of the loss within any one tax year.

There are also several simplified forms for taxation of business income, which are chiefly designed for micro enterprises (generally applicable to taxpayers generating revenue below EUR 2 million per year).

Taxation of partners

Partnerships (except for joint-stock limited partnerships, limited partnerships and, in some cases, general partnerships) are not taxpayers for purposes of income tax, but are pass-through (tax transparent) entities, and partnership income is taxed at the level of the partners. The revenue and costs of the partnership are treated as business revenue and costs of the partners, in proportion to each partner's share in the profit of the partnership. Because partnership income is treated as business income, a partner may elect taxation at the flat rate of 19%.

Capital gains

For purposes of Polish PIT, there is no general regulation treating capital gains separately from other sources of income, but there is specific treatment of certain forms of capital gains.

Income from disposal of shares in legal persons is subject to tax at the rate of 19%, as is income from sale of securities and derivatives. Such income is reported in a separate return and is not combined with income from other

sources. Income from the liquidation of a legal person is subject to taxation under the same rules as income from participation in profit of legal persons, at the rate of 19%.

Income from the sale of real estate is subject to taxation (at the rate of 19%) only if the real estate is sold within 5 years after acquisition or construction of the real estate (counting from the end of the year when acquisition and construction took place), unless it is sold within business activity (here certain exceptions and specific rules may also apply). Income (other business income) from the sale of real estate is exempt from income tax if the income is used within 2 years to satisfy residential needs. This exemption applies to real estate acquired after 31 December 2008. (Sale of real estate acquired prior to that date is subject to an earlier regime of taxation and exemptions in effect when the property was acquired.)

Solidarity levy

The obligation to pay the solidarity levy applies to individuals who receive income subject to PIT on a general basis, income from certain capital gains, income subject to flat tax, or income from a foreign controlled entity. The obligation to pay the solidarity levy arises when the sum of the aforementioned types of income, after reducing them by deductible amounts, exceeds PLN 1 million. The solidarity levy amounts to 4% of the basis.

Individuals obliged to pay the solidarity levy must submit a declaration on the amount of the solidarity levy.

Mandatory social insurance and health insurance contributions

Business entities (whether legal persons, organisational units without legal personality, or individuals conducting business activity) are generally remitters of contributions for social insurance and public health insurance for individual employees and freelancers who do not have their own registered businesses. A portion of the contribution is paid by the employee or freelancer and deducted from their pay, and a portion is paid by the employer (or business hiring a freelancer).

The annual base for calculating the social insurance part is limited to an amount determined each year. In 2023, this is PLN 206,050. This means that

contributions to retirement and pension insurance are not collected if the base for calculating contributions exceeds this value.

Estate and gift tax

Acquisition of assets through gift or inheritance may be subject to estate and gift tax in Poland. Taxpayers are divided into three groups for this purpose, depending on their degree of relationship to the decedent or donor. There are different tax rates and exclusions for each of the three groups.

There is a complete exemption from estate and gift tax for spouses, descendants, ancestors, stepchildren, siblings, or stepparents of the decedent or donor, if they file a relevant declaration with the tax office within 6 months after a deed of gift is drawn up by a notary, or the gift is made, or in the case of inheritance, after the court order confirming inheritance becomes legally final; in the case of cash gifts, confirmation of the transfer of funds between the donor's and recipient's bank accounts is filed with the declaration.

There are also exemptions for such items as acquisition of residential real estate (under certain conditions) and trademarks.

13. Immigration requirements

Immigration controls

Poland has no immigration quotas.

As a rule, no vaccinations or medical certificates are required for Poland. In case of citizens of most countries outside the EU or EEA, in cases where they are required to obtain visas or stay permits to visit Poland or to stay in Poland, proof of health insurance with minimum cover of EUR 30,000 for the intended period of stay is required (unless a person is covered by public health insurance in Poland).

A foreigner entering Poland for a maximum period of stay of 4 days should possess resources to cover costs of accommodation, board, transit and return to the state of origin in the amount of at least PLN 300 or foreign currency equivalent. Foreigners entering Poland for a period of stay exceeding 4 days

should have PLN 75 per day of their stay or foreign currency equivalent. For the purpose of documenting these resources, a foreigner may present such evidence as:

- traveller's cheques
- a credit card that can be used in Poland, with a statement on the credit limit, or a payment card that can be used in Poland, with an up to date certificate on the state of the account or an up to date account statement
- statement on possession of funds at a bank or other institution in Poland, confirmed by an authorised person and issued at the latest one month before crossing the border.
- The level of required resources and the documents that can be used to confirm possession of the resources differ from those indicated above in the case of particular purposes of a journey (work, study, medical treatment, organised tourism, sports tournaments)—detailed requirements are set forth in the Regulation of the Minister of Interior and Administration of 23 February 2015.

Depending on citizenship, a foreigner may be required to obtain a visa before entering the country. For visitors required to obtain a visa, additional documents may be required. The type of document depends on the purpose stated in the visa. No separate entry permits are required, and no exit permits are required. No re-entry permits are required. The number of entries to Polish territory (and in general the Schengen territory) is limited only in the case of a single-entry visa. Visas are discussed in more detail in the earlier section on travel restrictions (section 2, general considerations, diplomatic relations).

Immigration requirements and formalities

EU citizens and their families

Citizens of EU member states, EFTA member states belonging to the EEA (Iceland, Liechtenstein and Norway) and Switzerland, as well as members of their family who are not EU, EEA or Swiss citizens, may stay in Poland up to 3 months without the necessity to fulfil any additional conditions for stay (other than the requirement to register the address where they are staying). Citizens staying in Poland longer than 3 months (meeting one of the conditions for stay set forth in Art. 16 and following of the Act on Entry, Stay and Exit from the Territory of the Republic of Poland by Citizens of European Union Member States and Members of Their Families of 14 July 2006) are required to register their stay, and family members who are not EU or EEA citizens are required to obtain a residence card.

An application for registration of stay by a citizen of the EU, EEA or Switzerland or issuance of a residence card to a family member should be filed in person with the province governor at the place of stay of the citizen by the next day upon expiry of 3 months from the date of entry into the Republic of Poland. The province governor will register the stay and issue a statement of registered stay by a citizen of the EU, EEA or Switzerland (usually within one month, which includes 30 days given to authorities to conduct certain verification concerning public safety). EU citizens whose stay has been registered are issued a statement of registration. The province governor will issue a residence card to a family member of a citizen of the EU, EEA and Switzerland within 6 months from filing of an application (the province governor issues a confirmation of receipt of the application on the filing date).

After 5 years of uninterrupted stay in Poland, a citizen of the EU, EEA or Switzerland acquires a right of permanent stay. A family member who is not a citizen of the EU, EEA or Switzerland acquires a right of permanent stay after 5 years of uninterrupted residence in Poland together with the citizen.

An uninterrupted stay is defined by the Act on Entry, Stay and Exit from the Territory of the Republic of Poland by Citizens of European Union Member States and Members of Their Families of 14 July 2006 as a stay within the territory of Poland when all interruptions did not exceed 6 months unless an interruption was caused by:

- compulsory military service, or
- an exceptional personal situation, in particular pregnancy, childbirth, illness, study, vocational training, secondment, requiring the presence of the foreigner outside the territory of Poland, and the interruption did not last longer than 12 consecutive months.

An application for a statement confirming the right of permanent stay (in the case of a citizen of the EU or EEA) or permanent residence card for a family member of a citizen of the EU or EEA should be filed in person with the province governor for the citizen's place of residence. If intending to remain in Poland, a family member who is not a citizen of the EU or EEA must file an application before expiration of the residence card.

The province governor will issue a statement confirming the right of permanent stay of a citizen of the EU, EEA or Switzerland without delay (maximum of one month, or two months in complex cases). The province governor will also issue a permanent residence card for a family member of a citizen of the EU, EEA or Switzerland within 6 months from filing of an application (the

province governor issues a confirmation of receipt of the application on the date of filing).

UK citizens and their families

UK citizens and their family members who stayed in Poland for a minimum of three months before 1 January 2021, are, as a rule, beneficiaries of the Withdrawal Agreement. In general, they are treated similarly to EU citizens and their family members. However, they are obliged to fulfil certain requirements, especially in terms of registering their stay by applying to the province governor for the place of their residence for a document confirming the right of permanent residence.

UK citizens and their family members who entered Poland after 1 January 2021, as a rule, are seen as third-country citizens and are subject to the same regulations that apply to other third-country citizens.

Citizens of third countries

Citizens of third party states can enter Poland if they:

- 1 hold a valid visa or are exempt from the obligation to possess a visa, or
- 2 hold a valid residence card.

Citizens of third countries intending to enter and stay in Poland as a rule must obtain an appropriate visa. But the regulations envisage a series of waivers from this obligation. Among others, this applies to citizens of Australia, Canada, Japan, Malaysia, Singapore, South Korea, and the United States (a full schedule is available on the website of the Ministry of Foreign Affairs).

Waiver of the obligation to hold a visa, both for EU and EEA citizens and those of other states, nonetheless in most cases exclusively applies to entry for a period usually not exceeding 90 days for tourism purposes and does not apply to entry for the purpose of education, work or other gainful activity (unless stipulated otherwise in international agreements, e.g. with Canada, South Korea, or the US). Special regulations apply to, among others, Ukrainian citizens, where only holders of biometric passports are exempt from the obligation to possess a visa.

Special regulations regarding entry and stay in Poland were also adopted due to the war in Ukraine. Ukrainian citizens fleeing the war are exempt from many obligations and formalities when it comes to entry to Poland and

legalisation of their stay here, and dedicated (simplified) procedures in this respect were introduced.

Visas

Citizens of third countries who are not entitled to a waiver of the obligation to hold a visa may enter Poland if they hold one of the following visas issued for a specified purpose:

- 1 Schengen visa (type C): authorising one or more entries and stays on the condition that neither the length of continuous stay nor the total length of successive stays in the territory of Schengen area states exceeds 90 days in the course of a 180-day period
- 2 national visa (type D): authorising entry and continuous stay solely in Poland, or a number of successive stays, altogether longer than 90 days, but not exceeding a total of one year during the visa validity period (maximum of one year); a national visa also allows for stay in territories of other Schengen area countries for a period of up to 90 days within each 180-day period.

A Schengen visa or a national visa, excluding a transit airport visa (A), can be issued for purposes such as tourism, visits, business activity, employment, higher education studies, academic research, or medical treatment. The visa validity period and stay within its terms and detailed procedural requirements are adapted to the purpose for which it is issued.

A foreigner should generally file an application for a Schengen visa at the consulate of a Schengen area state in his or her country of legal residence (this is usually done online, and a meeting at the consulate is set after the application has been submitted). In case of a planned visit in a Schengen zone country, the application should be filed at the consulate of that country, whereas in case of a planned visit in a number of Schengen zone countries, the application should be made at the consulate of the country that is the main destination of the foreigner's journey. A foreigner should generally file an application for a national visa at the Consulate of the Republic of Poland in the foreigner's country of legal residence (if there are several consulates in a given country, in principle, an application should be filed at the consulate for the given administrative region). In some countries a foreigner may use the services of an accredited visa centre that prepares the application and assists with the formalities at the consulate.

An application for a Schengen or national visa should be filed not earlier than three months before the start of a planned visit and normally no later than about 14 days before a planned journey. This is because the visa procedure

normally takes several business days (the final deadline may nonetheless differ according to the foreigner's state of origin and the consulate where an application is filed, and can be 30 days; also available on occasion are so-called express lanes, where the visa is issued within 3 days). The waiting time for an agreed upon deadline to submit an application should also be taken into consideration (prior registration and reservation of the deadline required)—detailed information is provided by particular consulates.

Other basis for stay by citizens of third party states in Poland

A citizen of a third country may obtain the right to stay in Poland, in particular, after expiry of stay designated in a visa or a visa validity period on the basis of permission for temporary or permanent stay or permission for long-term EU residence. In any case, a residence card issued to a citizen of a third country (upon permission for temporary or permanent stay or permission for long-term EU residence) during its validity period confirms the identity of its holder during the course of stay in Poland and, together with a travel document such as a passport, allows multiple border crossings without the need to acquire a visa.

Permission for temporary stay

A citizen of a third country may seek permission for temporary stay if circumstances arise justifying a foreigner's residence in Poland for a period longer than 3 months. These prerequisites are specified in detail in the Foreigners Act. This relates to situations where, for example:

- 1 the purpose of stay is to work in Poland on the basis of a contract with an employer based in Poland—separate types of permits may then apply (a permit for stay and work and a permit for stay to work in a profession requiring high skills)
- 2 the purpose of stay is delegation to work in Poland and the foreigner holds a work permit—a separate specific type of permit may then apply (permit for temporary stay for work by a foreigner delegated by a foreign employer to Poland)
- 3 the purpose of stay in Poland is business based on regulations binding in this regard in Poland—a permit for a temporary stay to conduct business applies
- 4 the purpose of stay in Poland is higher education in the first or second cycle of studies, uniform master's degree studies or third-cycle studies—a permit for temporary stay for education applies, or

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- 5 the purpose of stay in Poland is family unification or visit—a permit for temporary stay for family members of Polish citizens and family members of foreigners applies.

A permit for temporary stay can also be sought by, among others, a citizen of a third country who:

- 1 intends to undertake or continue study or professional training in Poland
- 2 is a member of the clergy or a monastic order or a person holding a religious post in a church or religious denomination whose status is regulated by an international treaty or Polish law or who acts on the basis of entry in the register of churches and other religious denominations, and the stay in Poland relates to a function held or preparation for that function, or
- 3 who has presented other circumstances justifying stay in Poland.

An application for a permit for temporary stay should be filed in person with the province governor for the third country citizen's place of residence in Poland. A foreigner must submit an application during his or her stay in Poland. There are a few exceptions, concerning mainly family unification, when the application may be submitted while the foreigner is outside of Poland on the date of submission of the application.

An application for a temporary stay permit should be filed by the last day of a foreigner's legal stay in Poland. If this deadline has been met and the application has no formal deficiencies or such deficiencies have been corrected on time, the province governor places a stamp in the foreigner's travel document confirming submission of an application for a temporary stay permit and the foreigner's stay in Poland is deemed legal from the date of the submitted application through the date when a decision on granting a permit for temporary stay becomes final. However, such stamp does not authorise crossing of the Polish border, which means that in the event of exit from the country prior to receipt of a permit for stay, the third country citizen will not be able to enter Poland merely on the basis of the stamp without obtaining a visa or other basis for stay.

Permission for temporary stay is granted in each instance for the period necessary to attain the purpose of stay in Poland, in principle for no longer than 3 years.

Permission for stay as a long-term EU resident

A third country citizen can be granted permission for stay as a long-term EU resident if the foreigner has stayed in Poland legally and without interruption before filing the application for at least 5 years and has (with certain exceptions):

- 1 a stable and regular source of income sufficient to cover living costs of the foreigner and family members supported by the foreigner
- 2 health insurance within the meaning of universal health insurance regulations or confirmation of treatment coverage by an insurer in Poland
- 3 attested command of the Polish language at the minimum level of B1.

An application for permission for stay as a long-term EU resident should be filed with the province governor for the third country citizen's place of stay solely during stay in Poland that is lawful (applications filed abroad are not considered).

For that purposes, an uninterrupted stay is defined as a stay within the territory of Poland when no interruption in the period of 5 years was longer than six months and all interruptions did not exceed 10 months, unless an interruption was caused by:

- 1 performance of professional duties by the foreigner or performance of work by the foreigner outside the territory of Poland on the basis of a contract concluded with an employer whose registered office is in Poland
- 2 the foreigner referred to in par. 1 being accompanied by his or her spouse or minor child
- 3 an exceptional personal situation requiring the presence of the foreigner outside the territory of Poland, and the interruption did not last longer than six months, or
- 4 travel outside the territory of Poland for the purpose of training or participation in activities provided for in the programme of studies at a Polish university.

Permits for stay as a long-term EU resident are granted for an unlimited period. However, it may be revoked when the foreigner stays outside Poland for a period of a minimum of 6 years. Upon issue of permission for stay as a long-term EU resident, a residence card valid for 5 years is issued, which the third country citizen must collect in person from the issuing province governor.

Permission for permanent stay

A third country citizen can be granted permission for permanent stay if, inter alia, one the following conditions is met:

- 1 the applicant is a holder of a Pole's Card or is of Polish descent
- 2 the applicant is a child under parental custody of a foreigner granted a permit for permanent stay or a permit for long-term EU residence:
 - a born after the foreigner has been granted a permit for permanent stay or permit for long-term EU residence, or
 - b born during the validity of a permit for temporary stay granted to the foreigner, or
- 3 the applicant has been the spouse of a Polish citizen by law recognised by Poland for at least three years prior to the date of application for a permit for permanent residence and has resided in Poland without interruption for at least two years immediately prior to the submission of such application on the basis of a permit for temporary stay granted in connection with marriage to a Polish citizen.

14. Expatriate employees

Cost of living and immigration

The cost of living in Poland is comparable to that elsewhere in Europe, but somewhat lower than the European average. Housing, food and services are most expensive in Warsaw and other large cities.

The annual inflation rate in 2022 was 14.4%.

Drivers' licences

Driver's licences issued by any EU member state are honoured in Poland. An EU citizen may use such a driver's licence in Poland without any time limits or requirement to replace it with a Polish licence.

Poland is a party to the Vienna Convention on Road Traffic. Individuals holding driver's licences issued by a country that is a signatory of the convention may operate a motor vehicle in Poland using the foreign licence for 6 months following the start of their temporary or permanent residence. After

that period the resident may receive a Polish driver's licence of the relevant category upon relinquishing the foreign licence to the pertinent licensing authority in Poland. Under the principle of reciprocity, however, the minister for transport may issue regulations establishing other conditions on the issuance of drivers' licences to citizens of certain foreign countries.

If a driver's licence was issued by a country that is not a party to the Vienna Convention on Road Traffic, an additional condition for obtaining a Polish licence will be to pass the theoretical part of the national driver's licence examination and submit a certified translation of the foreign licence.

If a foreigner does not hold a driver's licence, he or she must fulfil the requirements applicable to Polish citizens to operate a motor vehicle, i.e. take a driver's education course and pass the national theoretical and practical examinations.

Education

Poland has a highly developed system of high-quality public and private educational institutions, from kindergartens and preschools through universities. Schools where instruction is provided in a foreign language are also available, particularly in Warsaw and in a few other major cities.

Private schools set their own tuition and enrolment requirements, typically without any citizenship restrictions. Compared to most other countries in Europe, fees in Polish schools are fairly low.

Education in public schools is generally free for Polish and foreign citizens. Tuition is charged in preschools. Foreign citizens may be required to cover the costs of education in schools for adults.

The rules in the education area are provided mainly in the Education System Act of 7 September 1991.

The Polish education system has:

- eight grades of elementary school (first grade for children 6 or 7 years old)
- four grades of secondary school.

Children who are not Polish citizens can be enrolled in regular public schools or art schools under the same rules as Polish children. Foreign children are assigned to proper grades on the basis of a certificate or other acceptable

document confirming completion of a relevant level of education abroad or, if such documents are not available, on the basis of a placement interview conducted by the school principal or teachers. If the child does not speak Polish, arrangements are made for the placement interview to be conducted through an interpreter of a language that the child understands. As for higher education, certain foreigners are entitled to study in Poland on the same basis as Polish citizens.

These are foreigners who:

- hold a permanent Polish residence permit
- hold a Pole's Card (for foreigners with Polish background)
- have been granted refugee status in Poland or enjoy temporary protection in Poland
- are migrant employees—citizens of an EU, EEA or EFTA member-state, or members of a migrant employee's family residing in Poland
- hold a long-term EU residence permit issued in Poland
- hold a permit of temporary residence in Poland issued because of special circumstances
- were given supplementary protection in Poland, or
- are citizens of another EU, EEA or EFTA country, and their family members, with a right to permanent residency.

Other foreigners may study in Poland under the rules set out by a treaty or other agreement signed with a foreign institution pursuant to a decision of the Minister of Science and Higher Education, or pursuant to a decision of the president of the educational institution. These students may have to pay tuition to study in Poland or may study free of charge under a scholarship granted by the state, their home institution abroad, or the Polish educational institution.

Housing

Many housing options are available in Poland. Apartment buildings dominate in cities. Single-family houses are typically found on city outskirts, in smaller towns and in rural areas.

Acquiring real estate in Poland may require a permit from the Minister of Interior, but there are numerous exemptions from this requirement, for example favouring citizens of EEA member states or people who have been residing in Poland for a long time, or exemptions related to buying apartments or other types of residential premises.

Foreigners coming to Poland are generally not required to secure housing before arrival. In some cases it is necessary to indicate the address where the foreigner will be staying in Poland, but this may be the address of a hotel or other informal address (staying with family, friends, etc).

Medical care

High-quality medical care, both public and private, is available throughout Poland.

Visitors from outside the EU must pay for medical care in Poland. Citizens of most countries from outside the European Economic Area who are required to obtain a visa must present evidence of health insurance with a minimum coverage of EUR 30,000.

Persons entitled to receive public healthcare under the EU coordination regulations are entitled to free public healthcare services during their stay in Poland. They should obtain a European Health Insurance Card before entering Poland.

Emergency medical services will be provided whether the patient has health insurance or not.

The emergency number for the ambulance service is 999 when using a fixed-line phone and 112 when using a mobile phone.

Moving costs

Moving costs vary depending on the city, the circumstances, and the type of transport involved. Many domestic relocation companies specialise in serving foreigners moving to Poland.

Work contracts

The types of employment contracts valid in Poland and the related rules are discussed in the section on employment law. Typically, foreigners hired temporarily to work in Poland will be offered a definite-term employment contract tied to the period of validity of the work permit, visa or other document legalising their stay in Poland. Their employer may be Polish or foreign.

Both sides to an employment contract have some discretion in choosing the law that will govern it:

- When the employee comes from an EU member-state, such choice cannot deprive him/her of protection provided by the law of the country where he/she works. If the parties to the contract do not decide on the governing law, the law of the country in which the employee works will apply (or if the country of the employee's work cannot be determined, it will be the law of the country where the employer is located).
- When the employee comes from a country outside the EU, the parties to the employment contract can decide on the governing law as long as it is related to the employment. If the parties do not decide on the governing law, the employment relationship will be governed by the law of the country in which the parties had their residence or registered address when the employment relationship was established. If the work is, was, or would be performed at the employer's registered address, the law of the registered address would govern the contract. If the parties do not reside or have their registered address in the same country, or did not choose the law, the applicable law will be that of the country in which the work is, was, or would be performed. In any case, such choice cannot deprive an employee of protection provided by the law of the country where he/she works.

Work authorisation

In most cases, to be able to work legally in Poland, citizens of a country outside the EU, EEA and Switzerland need authorisation to work in Poland (for example, a work permit or a temporary residence permit) and a permit entitling the person to stay in Poland for the purpose of performing work (national work visa, temporary residence and work permit, etc).

Legal basis for work

Work permits

There are some exceptions from the obligation to hold a work permit. Under two main exceptions that could potentially apply, foreign citizens will be released from the obligation to obtain a work permit if they:

- 1 have the right to stay and work in an EU member state or a country belonging to the European Economic Area which does not belong to the European Union, or the Swiss Confederation, and work for an employer whose registered address is in such country, and whom that employer has

- temporarily delegated (usually for a period not exceeding 3 months) to provide services (but not to perform work) in Poland; or
- 2 were delegated to Poland by a foreign employer for a period not exceeding 3 months in the given calendar year, strictly for the purpose of:
 - a installing and maintaining/repairing delivered, technologically complete, appliances, structures, machines or other equipment, if the foreign employer is their manufacturer
 - b collecting ordered appliances, machines or other equipment or parts manufactured in Poland
 - c delivering a training course for the personnel of a Polish employer who uses appliances, structures, machines or other equipment, as referred to in point a, in their operation or use; or
 - d assembling, disassembling and guarding exhibition displays, if the exhibitor is a foreign employer who has delegated foreigners to Poland for this purpose.

If none of these exceptions apply, foreign citizens need to get a work permit appropriate to their situation to be able work in Poland. There are five types of work permits, A, B, C, D and E:

- 1 A type A work permit is required if a foreigner is to perform work in Poland for an employer whose registered address, place of residence, branch, facility or other form of business is located in Poland (this work permit applies in most cases).
- 2 A type B work permit is required if a foreigner is to perform work in Poland for a total period exceeding 6 months in 12 consecutive months in the capacity of a member of the management board of a company entered in the commercial register or a company in organisation.
- 3 A type C work permit is required when a foreigner is to perform work in Poland for a foreign employer and is delegated for a period exceeding 30 days in the given calendar year to the foreign employer's branch or facility in Poland, or to its subsidiary or affiliate bound to the foreign employer by a long-term cooperation contract.
- 4 A type D work permit is required if a foreigner is to perform work in Poland, but for a foreign employer without a branch, facility or other form of business in Poland, and is delegated to Poland for the purpose of executing a temporary or casual service (e.g. export service).
- 5 A type E work permit is required when a foreigner is to perform work in Poland, but for a foreign employer and is delegated to Poland for a period exceeding 3 months within the next 6 months for a purpose other than that indicated in points 2–4.

Regardless of the applicable type of work permit, the party engaged in the work permit application procedure is always the employer intending to employ a foreigner, not the foreigner himself.

A work permit is issued by the governor of the Polish province for the place of registration of the company or the employer's place of stay. Work permits are usually issued for a period not exceeding three years (or five years in certain situations concerning type B permits), but may be extended but for no longer than three years (or five years respectively) in total.

A simplified type of work permit called a declaration on entrusting work to a foreigner may be issued when the employee is a citizen of Ukraine, Russia, Belarus, Armenia, Georgia or Moldova. There is also a simplified regulation concerning seasonal work, such as a seasonal work permit to facilitate employment of foreigners in agriculture.

As a result of entry into force of the provisions on assistance to Ukrainian citizens, it is possible to entrust work to a Ukrainian citizen on the basis of a notification, which should be submitted electronically via praca.gov.pl. No work permits are required.

Legal basis for staying in Poland

If the foreigner is already legally in Poland based on a visa or under a regime not requiring a visa, he or she may apply for a residence permit no later than on the last day of his/her legal stay. As a rule, applying for a visa requires the foreigner to leave Poland, unless it concerns important and unforeseen personal reasons, e.g. illness, which may be the subject of a visa extension. The application for a visa extension should be submitted to the province governor for the foreigner's place of residence.

Temporary residence and work permits

Foreigners who are already legally in Poland (based on a visa, under a regime not requiring a visa or based on a temporary residence permit) and who are employed directly pursuant to a contract signed with an employer in Poland (this does not apply to persons assigned to work in Poland by foreign employers, covered by a type C, D or E work permit, when work permits are always required), can apply for a residence and work permit or for a permit to reside and work in Poland in an occupation requiring special skills. This document gives the holder the right to work in Poland (for a specific employer) and reside in Poland, so there is no need to obtain a separate work and residence permit.

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Wardyński & Partners

Al. Ujazdowskie 10, 00-478 Warsaw
 Tel.: +48 22 437 82 00, 22 537 82 00
 Fax: +48 22 437 82 01, 22 537 82 01
 E-mail: warsaw@wardynski.com.pl

