
Practical Guide for EU, EEA and Swiss Lawyers on Service and Establishment

POLAND

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Structure	Information received
1. Establishment	
1.1. Registration with Host Bar	<p>Foreign lawyers are entitled to perform permanent practice upon being entered into one of the lists of foreign lawyers, maintained by District Bar Councils or Regional Bar Associations, respectively. The list discloses the following data: first name, last name, date and place of birth, place of residence, address, registered office, professional title earned in the home state. In addition, it discloses the name and address of the professional group to which foreign lawyer belongs in the home state and the name of competent authority of the home state that issued the certificate stating that foreign lawyer was registered in that state as an individual entitled to practice under one of the titles.</p> <p>Foreign lawyer applying to be entered into the list maintained by the Bar authority submits an application to the Board competent for the future registered office indicated in the application. In case of applying to be entered into the list maintained by the Board of Regional Bar Association the application is submitted to the Board competent for the future registered office indicated in the application or, if the practice is to be performed within the framework of employment relationship, to the Board competent for the registered office of future employer indicated in the application.</p> <p>Application should be accompanied by the certificate issued by competent authority of the home state, stating that the applicant is registered in that state as entitled to practice under one of the professional titles and the document confirming the nationality of the applicant.</p> <ul style="list-style-type: none">- Registration fees = minimum wage in Poland (in 2018 = 2100 PLN~500 EURO)- Membership fees 100 PLN monthly ~23 EURO

	<p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Article 6 and 7 of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej)
1.2. Title	<p>When performing permanent practice, foreign lawyer entered into the list uses the professional title earned in the home state, expressed in the official language of that state, with the indication of professional organization in the home state that he/she belongs to or the court before which he/she is entitled to appear before under the law of that state. The list into which foreign lawyer is entered should be specified, with indication of maintaining authority.</p> <p>Foreign lawyer who, in the home state, belongs to a professional group aimed at performing common practice in the provision of legal services is entitled to use, next to the professional title, the name of that professional group.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Article 8 of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej)
1.3. Salaried practice	<p>Employment as lawyer is permitted in case of being entered into the attorney-at-law list.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Article 15 section 2 of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej)
1.4. Legal Form and Shareholding	<p>The European Union lawyer entered into the list maintained by the Board of Regional Bar Association is permitted to perform permanent practice within the framework of employment relationship, under a civil law contract, in an individual law office, in registered partnership (spółka jawna), in private partnership (spółka cywilna), in limited joint-stock partnership (spółka komandytowo-akcyjna), in limited partnership (spółka komandytowa) or in professional partnership (spółka partnerska).</p> <p>The European Union lawyer entered into the list maintained by District Bar Council is permitted to perform permanent practice in an individual law office, in an association of advocates, in registered partnership (spółka jawna), in private partnership (spółka cywilna), in limited joint-stock partnership (spółka komandytowo-akcyjna), in limited partnership (spółka komandytowa) or in professional partnership (spółka partnerska).</p>
1.5. Joint Practice	<p>It is permitted to provide legal services in partnerships, where partners or general partners are attorneys at law, advocates, patent attorneys, tax attorneys or lawyers who perform permanent practice in Poland.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Article 15 section 1 and 3 of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej)
1.6. Areas of Activity	<p>Legal services by an attorney at law consist in particular in providing legal advice and consultation, preparing legal opinions, drafting of legislative acts, appearing before state offices and courts (an employed attorney at law is not permitted to appear as defense counsel in criminal proceedings).</p> <p>Profession of advocate consists in the provision of legal services, in particular in providing legal advice, preparing legal opinions, drafting of legislative acts, appearing before courts and state offices.</p>

	<p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Act of attorneys at law, - Advocates' profession Act
<p>1.7. Practice Rules</p>	<p>When performing permanent practice, foreign lawyer entered into the list uses the professional title earned in the home state, expressed in the official language of that state, with the indication of professional organization in the home state that he/she belongs to or the court before which he/she is entitled to appear before under the law of that state and the information whether foreign lawyer performs permanent practice within the scope of the profession of advocate or attorney at law.</p> <p>The European Union lawyer when entered into the list maintained by the Board of Regional Bar Association has the same rights and obligations as any attorney at law, and when entered into the list maintained by District Bar Council has the same rights and obligations as any advocate. This also applies to the obligation to follow the principles of professional ethics.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Article 3 and 4 of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej)
<p>1.8. Principle of Double Deontology</p>	<p>Regulations of both home Bar and Polish Bar, where the applicant was registered, apply.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Article 14 and 20 of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej)
<p>1.9. Disciplinary proceedings</p>	<p>Foreign lawyer, depending on the list he/she was entered into, is subject to disciplinary proceedings under disciplinary regulations for attorneys at law or advocates.</p> <p>Instead of the penalty of suspension of professional activity of an attorney at law or an advocate, the penalty of suspension of the right to provide legal services in the Republic of Poland for a period ranging from three months to five years applies. Instead of the penalty of deprivation of the right to practice as an attorney at law or of expulsion from the advocates bar, the penalty of prohibition of legal services provision in the Republic of Poland applies.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Article 10 of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej)
<p>1.10. Insurance (professional indemnity insurance, social security, etc.)</p>	<ul style="list-style-type: none"> • Professional Indemnity Insurance: Foreign lawyer is obliged to indemnify the civil liability for damages caused while providing legal services under the rules applying to attorneys at law or advocates, depending on the registration list. The above obligation does not apply to individuals who demonstrate that they are covered by insurance or guarantee according to the provisions in their home state and the terms and scope of such insurance or guarantee are equivalent to terms and scope of Polish insurance and the insurance is valid in Poland. • Social security: Social insurance contributions – foreign lawyer performing business activity (providing legal services in a law office, a partnership) in Poland pays social insurance contributions based on business activity, in case of an attorney at law employed under employment relationship those contributions are paid by organizational units or companies employing that attorney at law.

	<p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Article 11 of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej)
1.11. Fees	<p>Fees for the activities of attorneys at law and advocates are determined by a contract with the client.</p> <p>It is not permitted to contractually establish the remuneration solely in the form of success fee.</p> <p>Fees for activities before judicial authorities, being the basis for awarding the costs by the court, are determined by the Minister of Justice by regulation.</p> <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Regulation of the Minister of Justice on Fees for Attorneys at law Services - Regulation of the Minister of Justice on Fees for Advocates' Services
1.12. Continuing Legal Education	<p>Continuing legal education is required for attorneys at law and advocates – this obligation also applies to established foreign lawyers.</p> <ol style="list-style-type: none"> 1) Attorneys at law 40 training points per 3 years (2 points per hour of training as listener or participant, 4 points as lecturer). 2) Advocates 12 training points (12 hours) per year. <p>Relevant national provisions:</p> <ul style="list-style-type: none"> - Internal acts of National Bars
1.13. Bar	<p>Once entered into the list the European Union lawyer becomes a member of competent attorneys at law bar or competent advocates bar.</p>
1.14. Conditions for the Acquisition of the Title of a 'National Lawyer'	<p>The European Union lawyer or a citizen of the European Union member state who holds the professional qualifications required to perform the profession of attorney at law or advocate may be entered into the advocates list or attorneys at law list if he/she:</p> <ul style="list-style-type: none"> - meets the conditions set out in Article 65 items 1 and 2 of the Act of 26 May 1982 – Law on the Bar or in Article 24 section 1 items 3, 4 and 5 of the Act of 6 July 1982 on Attorneys at Law. - has a command of spoken and written Polish. - passes the skill test. <p>Entrance examination is conducted by the examination commissions for advocates or attorneys at law training, at the Ministry of Justice, appointed by disposition.</p> <p>The European Union lawyer entered into the list maintained by local attorneys at law or advocates bar is entitled to perform permanent practice within the scope corresponding to the profession of attorney at law or advocate (the same).</p> <p>Bar authorities in Poland notifies the competent authority in the lawyer home state of entering that lawyer into the list, of refusing to do so, or of deleting from the list.</p>

2. Services

2.1. Under home title & representation before courts

- Service under your home title – before courts and administrative authorities.
- Courts and administrative authorities may require proof that you are lawyer in your home state.
- Before first rendering service in Poland, you have to inform the competent local bar, which also can request to prove of your registration as lawyer in your home state.
- Where the representation and defense are reserved to lawyers (i.e. criminal proceeding, representation before the Supreme Court), you need to work in conjunction with a host lawyer. The conjunction has to be agreed between you and the host state lawyer.

Relevant national provisions:

- Article 8 of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej)

2.2. Deontology

Internal acts of national bars and CCBE guidelines.

2.3. Fees

Remuneration is determined by a contract with the client.

3. Acquisition of the national lawyer's title

3.1. Via Establishment Directive

See above point 1.14

3.2. Via Professional Qualification Directive

Pass the aptitude test (or having a period of adaptation up to 3 years): see Articles 13-14 of Directive 2005/36 on recognition of professional qualifications

4. Practicalities

4.1. Practical information

You can find information on the court system, addresses, contacts and opening hours of all Polish courts under:

<https://www.ms.gov.pl/> - the Ministry of Justice.

<https://bip.ms.gov.pl/pl/rejstry-i-ewidencje/lista-sadow-powszechnych/> - list of courts

<https://www.ms.gov.pl/pl/lista-komornikow-sadowych/> - list of court enforcement officers (debt enforcement)

<https://ems.ms.gov.pl/krs/wyszukiwaniepodmiotu> - register of companies, associations, other legal entities with the possibility of printing a copy of the register on the rights of the original.

https://ekw.ms.gov.pl/eukw_ogol/menu.do – electronic land and mortgage register (real estate information, note that to use the search engine you should know the real estate register number).

Court websites, including addresses, phone numbers, opening hours, contact details:

[www.\[city name\].so.gov.pl](http://www.[city name].so.gov.pl) – regional courts

	<p>eg. www.krakow.so.gov.pl/ - Regional Court in Cracow</p> <p>www.[city name].sr.gov.pl – district courts</p> <p>eg. www.oswiecim.sr.gov.pl/ - District Court in Oswiecim</p> <p>Supreme Court: www.sn.pl</p> <p>Supreme Administrative Court: www.nsa.gov.pl/</p> <p>on this website in the tab “Wojewódzkie Sądy Administracyjne”</p> <p>data of all Voivodship Administrative Courts</p> <p>http://obsil.pl/wp-content/uploads/2018/05/Ustawa-o-prawnikach-zagranicznych.pdf</p> <p>(text of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej-in English)</p> <p>Contacts to and information on the organization of the Polish Bar are available under:</p> <p>National Bar Association</p> <p>www.kirp.pl</p> <p>Local Bars:</p> <p>http://kirp.pl/o-samorzadzie-okregowe-izby-radcow-prawnych/</p> <p>Polish Bar Council</p> <p>www.nra.pl</p> <p>Local Bars:</p> <p>http://www.nra.pl/nra.php?id=122</p>
<p>4.2. National organisation</p>	<p><u>Attorneys at law</u></p> <p>The National Bar is a member of a few international organisations of lawyers, such as the Council of Bars and Law Societies of Europe (CCBE), International Bar Association (IBA), the European Association of Lawyers (AEA-EAL) and the European Company Lawyers’ Association (ECLA).</p> <p>There are 19 Regional Bar Associations at law and they are responsible primarily for representing the professional interests of its members, running legal training and continuous education of attorneys at law, supervising the practice of the profession by attorneys at law and trainees and keeping the lists of attorneys at law, foreign lawyers and trainees. A number of Regional Bar Associations belong to the European Bars Federation (FBE).</p>
<p>4.3. Reference to national legislation with other languages available + links</p>	<p>http://obsil.pl/akty-prawne/</p> <p>http://obsil.pl/wp-content/uploads/2018/05/Ustawa-o-prawnikach-zagranicznych.pdf</p> <p>(text of Act on the provision of legal services by foreign lawyers in the Republic of Poland (ustawa o świadczeniu przez prawników zagranicznych pomocy prawnej w Rzeczypospolitej Polskiej-in English)</p>
<p>4.4. Reference to existing national guides</p>	<p>http://obsil.pl/akty-prawne/</p>

4.5. Reference to services available for lawyers in that jurisdiction	EU, EEA or Swiss lawyers in a host Member State have access to the services of the Order (permanence, documentation, meetings of columns, etc.) under the same conditions as national lawyers when they are registered on the list of advocates or attorneys at law
4.6. Contact information	National Bar Association www.kirp.pl Local Bars: http://kirp.pl/o-samorzadzie/okregowe-izby-radcow-prawnych/ Polish Bar Council www.nra.pl Local Bars: http://www.nra.pl/nra.php?id=122