

**Act on Aliens  
of 13 June 2003**

(Journal of Laws of 2003, No 128, it. 1175)

**Chapter 1**

**General provisions**

**Art. 1**

The Act shall lay down the principles and conditions governing entry into, transit through, residence on, and departure from the territory of the Republic of Poland as they apply to aliens as well as the procedure and the authorities competent the in these matters.

**Art. 2**

Any person who does not have Polish citizenship shall be regarded as an alien.

**Art. 3**

This Act shall not apply:

- 1) with exception of art. 13, sec. 1, art. 25, art. 26, art. 35 – 41, art. 51 sec. 1 and art. 144, to heads and members of staff of diplomatic missions and heads of consular posts and members of consular staff of foreign states or to other persons treated equally under applicable laws, treaties or generally recognised international customs, on condition of reciprocity and subject to the requirement of holding appropriate documents by such persons.
- 2) nationals of member states of the European Union as well as to the nationals of Member States of the European Economic Area, which are not Member States of the European Union but on the basis of agreements concluded between EEA and EU, enjoy free movement of persons and members of their families, within the scope

regulated in the Act of 27 July 2002 on the principles and conditions of entry and residence of nationals of the Member States of the European Union and members of their families within the territory of the Republic of Poland (J.L. No 141, it. 1180 and of 2003 No 128, it. 1175).

- 3) as regulated in the Act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland (J. L. No 128, it. 1176), to aliens applying for the protection and to those who have been granted protection according to the provisions of above mentioned Act.
- 4) as regulated in the Act of 9<sup>th</sup> November 2000 on Repatriation (J. L. No 106, it. 1118, as amended)<sup>1</sup>, to aliens of Polish origin and the closest members of the repatriate's family.

#### **Art. 4**

Notions used in this Act shall mean:

- 1) a travel document - the document recognised by the competent authority of the Republic of Poland, authorising its holder to cross the border, which has been issued to an alien by the authority of a foreign state, the Polish authority or an international organisation or an entity authorised by the agency of a foreign state or a foreign authority of the state nature;
- 2) the border - the state border of the Republic of Poland within the meaning of the Act of 12 October 1990 on the Protection of the State Border (J. L. No. 78, it. 461 as amended);
- 3) the carrier - a natural or legal person who, for economic purposes, carries persons by air, sea or land;

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<sup>1</sup> Amendments of mentioned Act were published in J. L. of 2001 No 42, it. 475 and No 128, it. 1403 and of 2002 No 113, it. 984 and No 127, it. 1090.

- 4) the international airport transit zone - the area of an international airport situated on the territory of the Republic of Poland, ranging from the board of the aircraft to the border checkpoint that covers the airport apron and the airport terminals;
- 5) a visa - permission issued to an alien by the Polish authority or the authority whose competence in that matter stems out from the provisions of the international agreements binding the Republic of Poland, authorising an alien to enter into, transit through, residence on, and depart from the territory of the Republic of Poland, for the period, purpose and on conditions specified in that permission;
- 6) the work permit - the permit for work issued on the basis of the Act of 20 April 2004 on promotion of employment and labour market institutions (J.L. No 99 item, 1001, No 273, ite, 2703 and of 2005 No 64, item 565.)
- 7) the permit for tolerated stay – the permit for tolerated stay within the meaning of the Act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland.

#### **Art. 5**

An alien who is a citizen of two or more states shall be treated as a citizen of the state the which authority had issued the travel document presented by the alien upon crossing the border of the Republic of Poland.

#### **Art. 6**

In cases which remain within the competence of the voivod, where the voivod is the authority competent to examine an appeal in matters regulated in this Act or the President of the Office for Repatriation and Aliens is the higher level authority, Art. 33 of the Act of 5<sup>th</sup> June 1998 on the governmental administration in the voivodship (J. L. 2001 No 80, it. 872, as amended)<sup>2</sup> shall not apply.

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<sup>2</sup> Amendments of unified text of this Act were published in J. L. of 2001 No 128, it. 1407, pf 2002, No 37, it. 329, No 41, it. 365, No 62, it. 558, No 89, it. 804, No 200, it. 1688 and of 2003 No 52, it. 450.

#### **Art. 7**

1. The proceedings in cases regulated by this Act shall be carried out according to the provisions of the Code of Administrative Procedure unless this Act states otherwise.
2. The procedure concerning matters regulated by this law which fall within the competencies of the consuls, the provisions of the act of 13 February 1984 on the Functions of Consuls of the Republic of Poland (J. L. of 2002 No 215, it. 1823) shall apply, unless this Act states otherwise.

#### **Art. 8**

1. An authority may refrain from justifying, fully or partially, a decision or a ruling rendered on the basis of the provisions of the Act if it is justified by the state security or defence as well as by the public security and policy.
2. However the authority referred to in sec. 1 shall not refrain from justifying a decision or a ruling in the part referring to the recognition of the Polish origin of the alien.

#### **Art. 9**

If the area of territorial competence of the Border Guard divisions does not include some part of the territory of the Republic of Poland, the tasks referred to in art. 8, 62 sec. 5 and 7 and art. 71 b sec 4 and 6 shall be performed on this part of territory by the Commandant in Chief of the Border Guard.

#### **Art. 10**

An alien who applies for the granting or prolongation of visa, the granting of the residence permit for a fixed period, the permit to settle or the long-term resident's EC residence permit shall be informed in the language understandable to him/her about the procedure and its principles as well as about rights granted to him/her and obligations imposed on him/her.

#### **Art. 11**

1. Applications relating to procedures regulated by this Act shall be drawn up in the Polish language.
2. Application for granting a visa by a consul may be drawn up in a foreign language indicated by the consul.
3. Documents drawn up in a foreign language, used as the evidence in the proceedings performed according to the Act, should be submitted together with its translation into the Polish language, effected by a sworn interpreter.
4. The name and the surname of the interpreter shall be indicated in the records of interrogations of aliens submitting applications in the matters regulated by this Act.

## **Art. 12**

1. The following personal data of an alien may be processed during procedures and in registers run according to the provisions of this Act:
  - 1) first name (names) and family name;
  - 2) earlier family name;
  - 3) family name at birth;
  - 4) sex;
  - 5) father's name;
  - 6) mother's name and family name at birth;
  - 7) date of birth or age;
  - 8) place and country of birth;
  - 9) description
    - a) height in centimetres,
    - b) colour of eyes,
    - c) distinctive features;
  - 10) fingerprints
  - 11) citizenship;

- 12) nationality;
  - 13) marital status;
  - 14) education;
  - 15) current occupation;
  - 16) place of employment;
  - 17) place of residence or stay;
  - 18) information on criminal record, criminal and petty offences procedures currently conducted against him / her as well as on rendered and judicial or administrative sentences rendered in his / her case.
  - 19) military service status;
  - 20) information on abroad travels and stays within the last 5 years.
2. In proceedings for granting or prolongation of a visa or refusing entry and in proceedings for granting the residence permit for a fixed period, in addition to the data referred to in sec. 1, also data concerning the alien's state of health may be processed.

#### **Art. 12 a**

Fingerprints shall be taken, in cases referred to in this Act, from an alien who is at least 14 years of age.

### **Chapter 2**

#### **Crossing the border**

#### **Art. 13**

1. An alien may cross the border and stay on the territory of the Republic of Poland if he/she is in possession of the valid travel document and a visa, unless this Act states otherwise.
  - 1.a. The conditions of crossing the border by school pupils from third countries taking part in school trips from other member state of the European Union as well as conditions of stay of those aliens on the territory of the Republic of Poland shall be determined by provisions of law of the European Union.

2. If it is necessary to maintain reciprocity in relations with other states, crossing the border of an alien may be dependent on paying a fee related to the entry into the territory of the Republic of Poland.
3. The fee referred to sec. 2 shall constitute the revenue of the state budget.
4. The Council of Ministers may specify, by means of an ordinance, the list of states, whose citizens are obliged to pay a fee referred to in sec. 2, its amount as well as the authorities competent with respect to collection or to control of collection of this fee.
5. In the ordinance referred to in sec. 4, the amount of fees for crossing the border applied to the Polish citizens in the states whose citizens shall be obliged to pay the fee, shall be taken into account. When specifying competent authorities, the organisational conditions of border checking point and a possibility to pay this fee before crossing the border shall be taken into account. It should be also considered whether the citizens of the states covered by the ordinance are subject to visa requirement.

#### **Art. 14**

1. An alien stopped in the border zone directly after having crossed the border involuntarily and contrary to the binding laws may be immediately escorted to the state border of the Republic of Poland.
2. The authority which had stopped the alien because of illegal crossing of the border shall take his/her fingerprints, unless the alien has been immediately escorted to the state border.
3. The fingerprints shall be taken from the alien referred to in sec. 2 by means of dactyloscopic cards or of the device used for taking of fingerprints electronically.

#### **Art. 15**

1. An alien entering into the territory of the Republic of Poland shall be obliged to possess and present at the request of the competent authority the financial means necessary to cover the costs of his/her entry into, transit through, residence on, and departure from the territory of the Republic of Poland or the documents authorising him / her to obtain those means as well as the authorization to enter into another state or to return to his/her country of origin, if such authorization is required.
2. Possession of the financial means referred to in sec. 1 may be confirmed by presentation of the invitation.
3. The means and documents, mentioned in sec. 1, need not be presented by aliens, who:
  - 1) cross the border on the basis of:
    - a) the international agreements which release an alien from an obligation to possess these means or which provide the obligation of covering the costs of his/her stay by Polish State agencies or public institutions.
    - b) agreements on local border traffic or agreements indicating conditions of border crossing in check points placed on the tourist trails, which cross the border,
    - c) the entry visa,
    - d) the residence visa for the purpose of carrying out employment,
    - e) the residence visa for the purpose of enjoying temporary protection,
    - f) the residence visa for the purpose of taking part in asylum proceedings,
    - g) the residence card,
  - 2) cross the border for the purpose of charitable work;

- 3) take part in rescue actions.
4. Upon crossing the border, the control of travel document and visa, referred to in art. 13 sec. 1 as well as of financial means, documents and permits referred to in sec. 1, shall be carried out by the commanding officer of the Border Guard checkpoint.
5. The minister competent with respect to internal affairs, acting in consultation with the minister competent with respect to the public finances matters, the minister competent with respect to foreign affairs and the minister competent with respect to health matters, shall specify, by means of an ordinance, the amount of financial means which should be possessed by an alien entering into the territory of the Republic of Poland, and documents which may confirm possession of such means as well as the purpose of entry into the territory of the Republic of Poland, if the amount of financial means depends on this purpose.
6. The amount of financial means specified in the ordinance referred to in sec. 5 should be sufficient to cover by the alien the costs of his/her accommodation, food, medical treatment, transit and deportation from the territory of the Republic of Poland. When indicating the amount of the means mentioned above, the age of an alien and the purpose of his/her entry into the territory of the Republic of Poland shall be taken into account. The ordinance should determine the types of documents that may confirm the possession of required amount of financial means.
7. Aliens entering into the territory of the Republic of Poland for the purpose of performance of specified professional activities, may be released from an obligation to possess:
  - 1) the travel document provided that they possess documents confirming, that the entry into the territory of the Republic of Poland is connected with the performance of those professional activities;
  - 2) the financial means referred to in sec.1, if aliens do not cover by themselves the costs of stay on the territory of the Republic of Poland.

8. The Council of Ministers may specify, by means of an ordinance:
- 1) the categories of aliens who – in connection with performance of specified professional activities - shall be released from the obligation referred to in sec.7, taking into account the specificity of those activities;
  - 2) documents confirming that entry into the territory of the Republic of Poland is connected with performance of professional activities referred to in sec. 1, taking into account the necessity of providing the control over the border traffic;
  - 3) cases, in which it is presumed, that because of the performance of professional activities an alien does not born the costs of stay on the territory of the Republic of Poland, taking into account the manner of organisation of performance of those activities;
  - 4) the amount of financial means, that the alien shall be obliged to possess when performing specified professional activities, if he/she borns the cost of stay on the territory of the Republic of Poland.

#### **Art. 15a**

1. Aliens being members of crews of ships arriving to Polish seaports, crossing the border for the purpose of entry into the land and stay within the borders of port city, possessing a valid travel document and laissez-passez issued by commanding officer of the Border Guard checkpoint shall be released from the obligation to possess a visa.
2. A laissez-passez shall be issued, refused or withdrawn by commanding officer of the Border Guard checkpoint.
3. A laissez-passez shall be issued to an alien referred to in sec. 1 upon an application submitted by shipowner, captain of the ship or an appointed agent acting in his name.
4. To an application for issue of laissez-passez shall be enclosed the list containing information referred to in Annex to the Convention on Facilitation of International Maritime Traffic, done at London on 9 April 1965.
5. The following data shall be entered on the laissez-passez:
  - 1) name (names) and family name of a member of the ship crew;

- 2) name and number of a travel document possessed by a member of the ship crew;
  - 3) name of the ship;
  - 4) name of the port (shipyard,harbour);
  - 5) date of issue of the laissez-passer and the period of its validity;
  - 6) a stamp of the controller and the signature of a person issuing laissez-passer;
  - 7) information, that laissez-passer shall be valid only with a travel document and entails its holder to stay in the port city.
6. The laissez-passer shall be issued for a period of stop of the ship in the port indicated in the application for issue of laissez-passer, not exceeding 15 days.
  7. In case of unforeseen prolongation of stop of the ship, a commanding officer of the Border Guard checkpoint may, at the request of shipowner, captain of the ship or an appointed agent acting in his name, prolong the period of validity of laissez-passer for a period indicated in the application for prolongation of laissez-passer, nor exceeding subsequent 15 days.
  8. An alien shall be refused the issue of laissez-passer if any of the circumstances referred to in art. 21 sec. 1 p. 2 and 4-7 have arisen.
  9. A laissez-passer issued to an alien who has been detained outside the borders of port city or after the expiry of the period of time, for which the laissez-passer has been granted shall be withdrawn. An alien shall be withdrawn a laissez-passer issued to him also if any of the circumstances referred to in art. 21 sec. 1 p. 2 and 4-7 have arisen.
  10. To refusal of issue of laissez-passer and its withdrawal shall apply mutatis mutandis provisions of art. 23.
  11. Issue and withdrawal of laissez-passer shall be entered in a evidence run by commanding officer of the Border Guard checkpoint.
  12. The minister competent with respect to internal affairs shall specify, by means of ordinance, the pattern of an application form for issue or prolongation of laissez-passer and a pattern of a laissez-passer, taking into account data referred to in sec.5.

## **Art. 16**

1. The invitation, referred to in Art. 15 sec. 2, may be issued by:

- 1) a Polish citizen residing in the territory of the Republic of Poland;
- 2) an alien legally residing in the territory of the Republic of Poland immediately prior to the issue of the invitation for a period of at least five years; or an alien who has been granted the permit to settle,
- 3) a legal person or an organisational unit which does not hold the status of legal person, with the seat in the territory of the Republic of Poland

hereinafter referred to as “the host”.

2. The invitation shall contain:

- 1) the data of the host:
  - a) first name (names), family name, date and place of birth, citizenship, address, occupation, type, series and number of an identity document or
  - b) firm or name, REGON number and a seat of a legal person or an organisational unit which does not hold the status of legal person;
- 2) first name (names), family name, date and place of birth, citizenship, address, occupation, type, series and number of a travel document of the alien invited as well as a degree of relationship with the host;
- 3) if invited, first name (names), family name, date of birth and sex of a spouse and children of the alien invited;
- 4) an obligation on the part of the host to cover all costs connected with the residence and departure of the alien invited, including the costs of possible medical treatment or expulsion from the territory of the Republic of Poland;
- 5) the period of residence that the alien is invited for by the host;

- 6) the name of the authority, which entered the invitation into the register of invitations;
- 7) date and number of entering the invitation into the register of invitations;
- 8) the signature of the host.

#### **Art. 17**

1. The invitation shall become effective upon being entered in the register of invitations at the host's request and shall be valid for a period of one year.
2. At the request of the authority which admitted an application for entering the invitation in the register of invitations, the host is obliged to provide documents confirming that he / she is able to fulfil the obligation to cover all costs connected with the residence of the alien invited, in particular, documents confirming that the host possesses the sources of income or his/ her property and its amount as well as documents that confirm the possession of the legal title to a dwelling that he / she stays in or the possibility to provide accommodation to the alien invited.
3. The decision on refusal or invalidation of entry in the register of invitations shall be rendered, if:
  - 1) the person invited is an alien to whom any of the circumstances specified in art. 42 p. 2, 4 and 7 has arisen;
  - 2) material status of the host, and - in case of natural person - his/her accommodation conditions, indicate that he/she will not have the possibility to fulfil the obligations assumed under the invitation;
  - 3) in the past the host did not fulfil the obligation stemming out from the invitation issued beforehand.

4. Invalidation of the entry into the register of invitations shall cause invalidity of the invitation.

#### **Art. 18**

The voivod competent with respect to the place of residence or the registered seat of the host shall enter an invitation to the register of invitations or shall render the decisions on refusal of such an entry and the decisions on invalidation of the invitation.

#### **Art. 19**

1. In the event the host did not fulfil the obligation stemming out from the issued invitation, the voivod shall specify by means of a decision the amount of costs, incurred by the State Treasury and related to the residence of the alien and his/her departure from the territory of the Republic of Poland, which should be born by the host.
2. The costs referred to in sec. 1, shall be enforces according to the procedure set forth in the regulations on the administrative enforcement of dues. The provisions of the Act of 17 June 1966 on the enforcement procedure in administration (J. L. 2002, No 110, it. 968, as amended)<sup>3</sup>, relating to delivery of the admonition shall not apply.

#### **Art. 20**

1. The minister competent with respect to internal affairs shall specify, by means of an ordinance, patterns of:
  - 1) the invitation;
  - 2) the form of application of entry an invitation into the register of invitations- providing the spaces for the data referred to in art. 16 sec. 2.

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<sup>3</sup> Amendments of unified text were published in J. L. of 2002 No 113, it. 984, No 127, it. 1090, No 141, it. 1178, No 153, it. 1271, No 169, it. 1387, No 199, it. 1672, No 200, it. 1679 and No 216, it. 1824 and of 2003 No 89, it. 718.

2. The form of application referred to in sec. 1 p. 2, should also provide the spaces for the following data: earlier family names of the alien invited, the purpose of his / her entry as well as the data concerning material status and accommodation conditions of the host.
3. In case of change of the pattern of the invitation, the ordinance referred to in sec. 1 may specify the term of validity of the invitations issued on the blanks of existing pattern as well as the time limit up to which the blanks of existing pattern may be used.

## **Art. 21**

1. An alien shall be refused entry into the territory of the Republic of Poland, if:
  - 1) he / she does not possess a travel document or a visa, referred in to art. 13 sec. 1 or did not pay a fee, that he was obliged to pay according to art. 13 sec. 2,
  - 2) his / her data has been recorded in the index of aliens whose residence on the territory of the Republic of Poland is undesirable;
  - 3) he / she does not possess financial means or authorisations, referred to in art. 15 sec. 1;
  - 4) circumstances connected with his / her entry into the territory of the Republic of Poland demonstrate that the purpose of his / her entry is other than the one declared.
  - 5) there is a well-founded reason to suspect that his / her entry into or residence on the territory of the Republic of Poland may constitute a threat to public health.
  - 6) his / her entry into or residence on may constitute a threat to the state security and defence as well as to the public security and policy or it would be in breach of the interests of the Republic of Poland.

- 7) prior the expiry of one year from the day of issue of former decision on refusal of entry into the territory of the Republic of Poland, if the alien has not presented any new circumstances of the case.
2. The alien, who has been granted a visa on the basis of art. 33, must not be refused entry.

#### **Art. 22**

If the amount of financial means possessed by an alien entering the territory of the Republic of Poland is less than the one required to cover the costs of residence for the period and purpose declared, the period of residence of an alien may be limited in proportion to the amount of means possessed by him/her.

#### **Art. 23**

1. Decisions on refusal of entry into the territory of the Republic of Poland and decisions on limitation of the duration of an alien's residence in proportion to the amount of financial means possessed by him / her shall be rendered by the commanding officer of the Border Guard checkpoint.
2. The decision of the commanding officer of the Border Guard checkpoint may be appealed against to the Commandant in Chief of the Border Guard.
3. Decisions referred to in sec. 1 shall be given order of immediate enforceability.
4. The commanding officer of the Border Guard checkpoint shall record in the travel document of an alien the fact, that the decision referred to in sec. 1 has been rendered.
5. The minister competent with respect to internal affairs shall specify, by means of an ordinance, the manner of recording in the travel document of an alien the fact that the following decisions have been rendered:

- 1) on limitation of the duration of an alien's residence on the territory of the Republic of Poland;
- 2) on refusal of entry into the territory of the Republic of Poland.

The manner of recording should make readable, during the control of an alien's travel document, the date of rendering above-mentioned decisions.

#### **Art. 24**

1. The proceeding conducted by the Border Guards agencies prior to the rendering of the decisions referred to in art. 23 sec. 1 shall be limited to:
  - 1) hearing an alien,
  - 2) controlling the documents possessed by the alien,
  - 3) hearing persons indicated by the alien if they accompany him/her in the travel,
  - 4) exercising other controlling activities provided for in the Act of 12 October 1990 on the Border Guard ( J. L. of 2002, No 171, it. 1399 and of 2003 No 90, it. 884 and No 113, it. 1070).
2. If it is justified by the organisational and technical conditions, in which it is carried out, the proceeding referred to in sec. 1 may be limited to controlling the documents possessed by the alien.

### **Chapter 3**

#### **Visas**

#### **Art. 25**

1. The visa shall specify:
  - 1) the number of the travel document of an alien;
  - 2) the place and date of its issue;

- 3) the purpose of entry and residence;
  - 4) the period of its validity during which the first entry into the territory of the Republic of Poland and the last departure therefrom should occur;
  - 5) the period of residence on the territory of the Republic of Poland during the visa validity;
  - 6) number of entries into the territory of the Republic of Poland, allowed within the period of residence.
2. A visa may entitle to a single, double or multiple entry.
  3. The period of visa validity should be started not later than 6 months from the date of issue of a visa.
  4. The visa may also contain other information and specify other conditions of entry, in particular:
    - 1) name and family name of the alien as well as his / her photograph;
    - 2) the place where the state border should be crossed,
    - 3) the number of children and other persons accompanying the alien, who have been recorded in the travel document of that alien.
  5. The visa may also contain the coded record of data and information referred to in sec. 1 and 4.

## **Art. 26**

1. With regard to the purpose of entry and residence, the following types of visa shall be issued:

- 1) the airport visa;
- 2) the transit visa;
- 3) the entry visa issued:
  - a) for the purpose of repatriation,
  - b) for the purpose of resettlement as a member of closest family of a repatriate
  - c) for the purpose of entry on the basis of the residence permit for a fixed period or the permit to settle, or the long-term resident's EC residence permit granted to an alien;
- 4) the residence visa issued for the purpose of:
  - a) tourism,
  - b) visit;
  - c) participation in sport events,
  - d) carrying out the economic activity.
  - e) carrying out the cultural activity or participation in the international conferences,
  - f) performance of the statutory functions by the representatives of the foreign state authority or the international organisation,
  - g) taking part in asylum procedure,
  - h) carrying out work,
  - i) education, training or didactic - with exception of carrying out work,
  - j) enjoying temporary protection,
  - k) arrival for the reasons referred to in art. 33 sec. 1,
  - l) the residence of a minor, referred to in art. 34,
  - m) referred to in art. 44 sec. 3, art. 61 sec. 3 and art. 71 a sec. 3,
  - n) other than referred to in l. a-m;
- 5) the diplomatic visa;
- 6) the service visa;
- 7) the courier visa
- 8) the transit diplomatic visa.

## **Art. 27**

1. The airport visa shall entitle to entry into and stay in the transit zone of an international airport and may be issued to an alien, who demonstrates that stay in the transit zone of an international airport is necessary to complete planned travel by air.
2. A visa referred in to sec. 1 shall be issued for the period of residence not exceeding 2 days.
3. The minister competent with respect to foreign affairs, acting in consultation with the minister competent with respect to internal affairs, shall specify, by means of an ordinance, the list of states whose citizens must be in possession of the airport visa, taking into account the provisions binding in the European Union.

#### **Art. 28**

1. The transit visa shall authorise an alien to transit through the territory of the Republic of Poland and may be issued to an alien who is authorised to enter the country of destination or the country adjacent to the territory of the Republic of Poland.
2. A visa referred to in sec. 1 shall be issued for the period of stay, which does not exceed 5 days, counting from the day of each entry into the territory of the Republic of Poland.

#### **Art. 29**

1. The entry visa shall authorise to single entry into the territory of the Republic of Poland and may be issued to an alien, who before crossing the border has obtained or will obtain when crossing the border other authorisation to reside on this territory.
2. The period of validity of the entry visa within which the alien should enter the territory of the Republic of Poland shall be one year.

#### **Art. 30**

The entry visa for the purpose of entry on the basis of the residence permit for a fixed period, the permit to settle or the long-term resident's EC residence permit shall be issued to an alien who was granted the residence permit for a fixed period or the permit to settle prior to crossing the border.

### **Art. 31**

1. The residence visa shall be issued as a short-term or a long-term visa.
2. The residence visa shall authorise to entry into and continuous residence on the territory of the Republic of Poland or to multiple consecutive periods of residence, not exceeding jointly:
  - 1) in case of a short-term visa - 3 months within the period of 6 month, counting from the date of the first entry;
  - 2) in case of a long-term visa - a year within the period of visa validity.
3. The long-term residence visa may be issued for the purpose of entry and residence referred to in art. 26 p. 4 l. b and d-j, if there are circumstances that justify the residence of an alien for a period exceeding 3 months.
4. The period of residence on the basis of the long-term residence visa shall be fixed within the limits referred to in sec. 2 p. 2 and sec. 3 with regard to the purpose indicated by an alien.
5. The period of validity of the residence visa may not exceed 5 years.

### **Art. 32**

1. The residence visa for the purpose of carrying out work may be issued to an alien who presents a promise to issue the work permit on the territory of the Republic of Poland or an employer's written declaration confirming the intention to employ an alien if the work permit is not required.

2. The visa referred to in sec. 1 shall be issued for the period of residence not exceeding one year, relevant to the period indicated in the promise or the employer's written declaration.
3. If an alien intends to carry out, within the fixed period of time, seasonal work on the territory of the Republic of Poland, the visa referred to in sec. 1 shall be issued for the period indicated in the promise to issue the work permit, not exceeding 6 months within the 12 month period, counting from the date of the first entry.

### **Art. 33**

1. The residence visa may be issued to an alien, despite of the circumstances that justify the refusal of the visa, if:
  - 1) provisions of the Polish law require that he / she should appear in person before an agency of the Polish public authority;
  - 2) his / her entry into the territory of the Republic of Poland is indispensable because of the necessity to undergo medical treatment to rescue directly his / her life, which he / she cannot undergo in other country;
  - 3) an exceptional personal situation that requires the presence of an alien on the territory of the Republic of Poland has occurred;
  - 4) it is required by the interest of the Republic of Poland;
  - 5) there is well-founded reason to suspect that an alien is a victim of trafficking in human beings within the meaning of Council Framework Decision of 19 July 2002 on combating trafficking in human beings (O.J. EC L 203 of. 1.08.2002), and it has been confirmed by an authority competent with respect to conduct procedure on combating trafficking in human beings.
2. The visa referred to in sec. 1 p. 1 -3 shall be issued for the period of residence necessary to realise the purpose of its issue. In any case such a visa may not be issued for the period exceeding 3 months.
3. The visa referred to in sec. 1 p. 1 shall be granted for a period of residence necessary to take by an alien the decision whether to cooperate with an authority competent with respect to conduct procedure on combating trafficking in human beings, not exceeding 2 months.

#### **Art. 34**

1. The residence visa shall be issued to a minor alien born on the territory of the Republic of Poland, at the request of his / her legal representative, who resides on the territory of the Republic of Poland on the basis of a visa.
2. If a minor referred to in sec. 1 has been recorded in the travel document of his / her legal representative, the visa issued formerly to a legal representative shall be cancelled and replaced by a new visa issued for both a legal representative and a minor.
3. The periods of residence and validity of a visa issued to a minor shall expire at the same term as periods of residence and validity of a visa issued to a legal representative. In the case referred to in sec. 2 the periods of residence and validity of a visa shall expire at the term indicated in the cancelled visa.

#### **Art. 35**

The diplomatic, service and courier visa shall authorise to entry into the territory of the Republic of Poland within the period of 6 months from its issue, as well as to residence and departure within the period indicated in the visa.

#### **Art. 36**

The diplomatic visa shall be issued to the head of the diplomatic mission and the member of the diplomatic staff as well as to the head of the consular post and member of the consular staff of foreign states or to the other person treated equally under applicable laws, treaties or generally recognised international customs. The provisions of this article shall also apply to members of the families of all persons mentioned above.

#### **Art. 37**

The service visa shall be issued to the member of administrative and technical staff of the diplomatic mission, member of the service staff of the diplomatic mission and consular employee, member of the service staff of the consular post as well as to any other person

delegated to work or coming on duty to the Republic of Poland and treated equally under applicable laws, treaties or generally recognised international practices.

The provisions of this article shall also apply to members of the families of all persons mentioned above.

#### **Art. 38**

The diplomatic and service visas shall be issued for the period of residence not exceeding 3 months unless the international agreement or generally recognised international custom state otherwise.

#### **Art. 39**

The diplomatic and service visa shall be issued to an alien entitled to obtain the documents referred to in art. 3 p. 1, for the period of holding his / her office.

#### **Art. 40**

1. The courier visa shall be issued to the diplomatic or consular courier.
2. The visa referred to in sec. 1 shall be issued for the period of residence not exceeding 10 days unless the treaty or generally recognised international customs state otherwise.

#### **Art. 41**

1. The transit diplomatic visa for the purpose of transit through the territory of the Republic of Poland, shall be issued to an alien referred to in Art. 36, 37 and 40 sec. 1, who holds the right to entry the country of destination or the country adjacent to the territory of the Republic of Poland.
2. The visa referred to in sec. 1 shall be issued for the period of residence not exceeding 5 days, counting from the date of each entry into the territory of the Republic of Poland.

#### **Art. 42**

An alien shall be refused the issue of a visa, if:

- 1) the premises of issue of certain type of visa have not been met;
- 2) his / her data is recorded in the index of aliens whose residence in the territory of the Republic of Poland is undesirable;
- 3) he / she does not possess financial means necessary to cover costs of residence on the territory of the Republic of Poland;
- 4) issue of a visa may constitute a threat to the state security and defence as well as to the public security and policy or if it would be in breach of the interests of the Republic of Poland;
- 5) period of validity of a travel document of an alien does not exceed 3 months from the date at which an alien must depart from the territory of the Republic of Poland on the basis of that visa;
- 6) the time limit of one year has not expired since the date of previous refusal of issue of a visa, and the alien has not presented any new circumstances of the case;
- 7) during the visa proceedings:
  - a) he / she has submitted an application or documents which contain untruthful personal data or false information,
  - b) he / she has testified untruthfully or has concealed the truth or has falsified or counterfeited a document for the purpose of using it as authentic or has used such document as authentic.

#### **Art. 43**

1. An alien residing on the territory of the Republic of Poland may be prolonged the residence visa, if the following conditions has been fulfilled jointly:
  - 1) it is justified by his/her important interest of personal or professional nature or by humanitarian reasons;
  - 2) reasons on the basis of which he / she applies for prolongation of a visa has occurred imperatively and could not be foreseen at the date of visa issue;
  - 3) circumstances of the case does not demonstrate that the purpose of his / her residence on the territory of the Republic of Poland shall be other than the one declared.
  - 4) the circumstances referred to in art. 42 p. 2-7 do not arise.

2. The period of residence on the territory of the Republic of Poland on the basis of a prolonged visa may not exceed the period of residence foreseen for this type of the residence visa.
3. A visa issued to an alien hospitalised who cannot depart or be transported to another country because of his / her state of health shall be prolonged up to the date when he / she is able to leave from the territory of the Republic of Poland.
4. An authority competent with respect to prolongation of a visa may apply to a medical expert to present an opinion in the case referred to in sec. 3.
5. A visa may be prolonged by a voivod competent with respect to the alien's place of residence, by means of affixing a visa sticker in the travel document of an alien. A visa may be prolonged only once, except the case referred to in sec. 3.
6. Prolongation or refusal of prolongation of a visa shall be effected by means of a decision.

#### **Art. 44**

1. An alien is obliged to submit an application for prolongation of a visa at least 7 days prior to the expiry of the term of residence indicated in a short-term visa possessed by him / her or at least 14 days prior to the expiry of the term of residence indicated in a long-term visa possessed by him / her.
2. If an application for prolongation of a visa has been submitted within time limits specified in sec. 1. a voivod shall render a decision on prolongation of a visa prior to the expiry of the term of residence indicated in the visa,
3. In the case when prolongation of a visa with respect to conditions referred to in sec. 2 is not possible, a voivod shall issue a new visa to an alien. The new visa may not expire prior to the completion of the first instance proceedings.

4. If the term for submitting an application referred to in sec. 1 is not complied, and the period of residence indicated in the visa expired before the proceedings for prolongation of a visa has been completed, an alien is obliged to depart from the territory of the Republic of Poland.

#### **Art. 45**

1. An application for issue or prolongation of a visa shall include:

- 1) personal data of an alien and his / her children referred to in application as well as other persons recorded in the travel document of an alien - in the scope necessary for issue of a visa;
- 2) features of the travel document of an alien.
- 3) information of abroad travels and stays within the last 5 years.
- 4) indication of the purpose of residence.

- 1a. An application for issue or prolongation of a visa shall be submitted with the use of visa application form.

2. An alien applying for issue or prolongation of a visa is obliged to justify the application. The applicant is also obliged to enclose the documents confirming circumstances indicated in the application and the photographs of persons referred in the application.

3. In the case referred to in art. 47 sec. 1, the commandant officer of the Border Guard checkpoint may release an alien from the obligation to enclose his / her photograph.

#### **Art. 46**

1. A visa shall be issued or refused by a consul.
2. A visa for the purpose of carry out work shall be issued or refused by the consul competent with respect to the place of an alien's permanent residence.

3. A visa referred to in art. 33 shall be issued or refused by consul or voivod competent with respect to the place of an alien's residence. The visa may be issued after obtaining the consent of the President of the Office for Repatriation and Aliens.
4. A visa referred to in art. 34 sec. 1 and 2 shall be issued or refused by the voivod competent with respect of the place of the legal representative's residence. In case referred to in art. 34 sec. 1 a visa issued to a legal representative shall be cancelled by the voivod competent with respect of the place of the legal representative's residence.
5. The diplomatic, service, courier and diplomatic transit visa shall be issued or refused by:
  - 1) the minister competent with respect to foreign affairs;
  - 2) the consul;
  - 3) the commanding officer of the Border Guard checkpoint - in particularly justified cases.
6. The diplomatic and service visa shall be issued or refused to an alien entitled to obtain the documents referred to in art. 3 p. 1 by the minister competent with respect to foreign affairs.
7. The diplomatic, service and diplomatic transit visa shall be issued on the basis of the note of the ministry of foreign affairs of the foreign state or the diplomatic mission of that state, and in the case of visa issued abroad - also on the basis of a visa application.

**7. a**

Prior to issue of a visa an authority competent with respect of its issue may request the Commandant in Chief of the Border Guard and- if necessary – other authorities for information, if the circumstances referred to in art. 42 p. 1-4, 6 and 7 apply to an alien.

**7.b.**

The authorities referred to in sec. 7 a shall be obliged, within the time limits of 10 days from the date of receiving such a request, to make available possessed information whether the circumstances referred to in art. 42 p. 1-4 , 6 and 7 apply to an alien.

8. With exception of decision rendered by a voivod, a decision refusing a visa shall be final.

#### **Art. 47**

1. The residence visa may be issued by the commandant officer of the Border Guard checkpoint to an alien who demonstrates that because of exceptional and urgent circumstances, such as: humanitarian grounds, reasons of professional nature or interest of the Republic of Poland, his / her transit through, entry into or residence on the territory of the Republic of Poland is necessary for the purpose referred to in art. 26 p. 4 l. b – f and i. The alien must also demonstrate that because of unforeseeable and imperative reasons he did not been able to obtain a visa issued by a consul.
2. The visa referred to in sec. 1 shall authorise to one entry into the territory of the Republic of Poland within the period of its validity relevant to the period of residence not exceeding 15 days.
3. Proceedings in the case for issue of a visa, may be limited to activities referred to in art. 24.
4. The issue of the decision on refusal of a visa referred to in sec. 1 shall be recorded in the travel document of an alien

#### **Art. 48**

1. A visa shall be cancelled, if:
  - 1) data of an alien is recorded in the index of aliens whose residence on the territory of the Republic of Poland is undesirable, with except for a visa issued on the basis of art. 33;
  - 2) there is a fear that entry or residence of an alien may constitute a threat to the state security and defence as well as to the public security and policy or if it would be in breach of the interests of the Republic of Poland;
  - 3) period of validity of the travel document of an alien does not exceed 3 months from the date at which an alien must depart from the territory of the Republic of Poland according to this visa;
  - 4) an alien while giving testimony intended as the evidence in the proceedings conducted by the agencies referred to in this Act has testified untruthfully or has concealed the truth or has falsified or counterfeited a document for the purpose of using it as authentic or has used such document as authentic.

2. A visa may be cancelled if the circumstances of the case demonstrate that the purpose of alien's entry or residence on the territory of the Republic of Poland shall be other than the one declared.
3. A decision on cancellation of a visa shall be rendered by the commanding officer of the Border Guard checkpoint, upon an alien's entry into the territory of the Republic of Poland.
4. Proceedings in the case of cancellation of a visa may be limited to activities referred to in art. 24.
5. The decision of the commanding officer of the Border Guard checkpoint referred to in sec. 3 may be appealed against to the Commandant in Chief of the Border Guard.
6. The issue of the decision on cancellation of a visa shall be recorded in the travel document of an alien.
7. The decision on cancellation of a visa shall be given order of immediate enforceability.

#### **Art. 49**

1. The issuing authority shall affix a visa in the travel document of an alien or the identity Polish document for an alien or - in case particularly justified by an alien's interest - in the separate blank visa form.
2. If an alien residing on the territory of the Republic of Poland on the basis of a visa has replaced his / her travel document or identity Polish document for an alien, the voivod competent with respect to an alien's place of residence shall, on his / her request, affix a visa in a new document.
3. The authority that issued the visa to an alien, may - ex officio or on request of an alien - correct lapses of a pen and apparent errors in a visa.

4. In the case of an alien residing on the territory of the Republic of Poland has obtained a visa issued by the consul or the commanding officer of the Border Guard checkpoint, lapses of a pen and apparent errors in this visa shall be corrected by the voivod competent with respect to the place of an alien's residence.
5. The authority, which has corrected lapses of a pen and apparent errors in the visa issued to an alien, shall affix a new visa in his / her travel document or identity Polish document for an alien and shall cancel the visa issued formerly.

#### **Art. 50**

1. An alien is obliged to leave the territory of the Republic of Poland before the expiry of the residence permit indicated in the visa and before the expiry of the term of visa validity, unless the visa was prolonged or he / she obtained the residence permit for a fixed period, the permit to settle or the long-term resident's EC residence permit.
2. An alien residing on the territory of the Republic of Poland on the basis of an international agreement on partial or full abolition of visa requirement or on the basis of a unilateral abolition of visa requirement is obliged to leave this territory before the expiry of the term indicated in this agreement or in an ordinance abolishing visa requirement unless he / she was granted the residence permit for a fixed period.
3. An alien residing on the territory of the Republic of Poland on the basis of an international agreement on partial or full abolition of visa requirement or on the basis of a unilateral abolition of visa requirement by the Republic of Poland is obliged to leave this territory after the expiry of the period of residence he / she has entered into the territory of the Republic of Poland, within the period not exceeding however 3 months from the date of entry into force the denunciation of this agreement or resumption of visa requirement.
4. If the denunciation of agreement on partial or full abolition of visa requirement or resumption of visa requirement entered into force prior to announcement of this fact in the form prescribed by law, the term referred to in sec. 3 shall be counted from the day of this announcement.

## **Art. 51**

1. The minister competent with respect to foreign affairs acting in consultation with the minister competent with respect to internal affairs, shall specify, by means of an ordinance:
  - 1) the documents, which should be possessed by heads and members of staff of diplomatic missions, heads of consular posts and members of consular staff of foreign states or other persons treated equally under applicable laws, treaties or generally recognised international customs;
  - 2) the patterns of documents referred to in p. 1;
  - 3) specification of visas issued to the persons referred to in p. 1,taking into account treaties or generally recognised international customs applicable in this scope.
2. The minister competent with respect to foreign affairs acting in consultation with the minister competent with respect to internal affairs, may, by means of an ordinance, on conditions of reciprocity, exempt all or some persons referred to in art. 3 p. 1 from the requirement to obtain the visa, if it is in good interest of the Republic of Poland. The ordinance shall list the countries whose representatives are exempt from this requirement.
3. The Council of Ministers may, by means of an ordinance, exempt fully or partially citizens of one or more states from the requirement of possessing all or specified visas while entry into the territory of the Republic of Poland, if it is in good interest of the Republic of Poland. The Council of Ministers may also specify the period of residence of an alien [exempted from the visa requirement] and other necessary conditions of his / her residence, in particular taking into account the purpose of residence. The ordinance may provide for that an alien may be exempt from requirement to possess the transit visa if he / she has obtained the entry visa or the residence visa issued by some states. If so, the ordinance should also list these states.
4. The minister competent with respect to internal affairs acting in consultation with the minister of internal affairs shall announce, by means of a public announcement, in the Official Journal of the Republic of Poland "Monitor Polski" the list of states, with which the Republic of Poland entered into agreements on the full or partial abolition of the visa

requirement or in relation to citizens of which the visa requirement while entry into the territory of the Republic of Poland has been abolished unilaterally. The announcement shall specify: date of entry into force an agreement or unilateral abolition, purpose of residence for which the visa requirement was abolished, period of stay which does not require the possession of a visa and other important elements concerning the principles of entry and residence.

## **Art. 52**

1. The minister competent with respect to internal affairs acting in consultation with the minister competent with respect to foreign affairs, shall indicate, by means of an ordinance:
  - 1) specification of visas, with exception of the visas issued to heads and members of staff of diplomatic missions, heads of consular posts and members of consular staff of foreign states or other persons treated equally under applicable laws, treaties or generally recognised international customs, and the pattern of a visa, taking into account its types referred to in art. 26 and scope of data that should be included in the visa, referred to in art. 25 sec. 1-4;
  - 2) the pattern of a blank visa form referred to in art. 49 sec. 1;
  - 3) the pattern of an application forms for issue or prolongation of a visa, in particular taking into account data referred to in art. 12 and art. 45 sec. 1;
  - 4) the manner of recording the fact of admitting the visa application;
  - 5) the manner of affixing a visa in the travel document and the manner of cancelling a visa issued to the legal representative in the case referred to in art. 34 sec. 2;
  - 6) the manner in which the commanding officer of the Border Guard checkpoint records in the travel document the fact of rendering the decision on refusal or invalidation of a visa.
2. The fact of admission of a visa application, affixing a visa in the travel document, cancelling of a visa issued to the legal representative, as well as the fact of rendering the decision on refusal the issue of a visa or the decision on invalidation of a visa should be recorded in a manner which makes possible the control of performance of those activities.

3. In case of change of the pattern of a visa, the ordinance referred to in sec. 1 may specify the term of validity of visas issued on the blanks of existing pattern as well as the time limit up to which the blanks of existing pattern may be used.

## **Chapter 4**

### **The residence permit for a fixed period**

#### **Art. 53**

1. The residence permit for a fixed period shall be granted to an alien, who:
  - 1) obtained a promise to issue the work permit or prolongation of such a promise or an employer's written declaration confirming intention to employ an alien if work permit is not required;
  - 2) carries out an economic activity in conformity with the regulations of the law in force in the Republic of Poland, which is beneficial to the national economy and in particular, contributes to the development of investments, transfer of technology, innovations or job creation;
  - 3) being a person whose achievements in the field of arts has been estimated, intends to continue a creative activity in the territory of the Republic of Poland;
  - 4) participates in training and occupational internships effected under programs of the European Union;
  - 5) intends, as a family member, to accompany a migrating worker referred to in the European Social Chart, done at Turin on 18<sup>th</sup> October 1961 (J. L. 1999, No 8, it. 67);
  - 6) is a spouse of a Polish citizen;
  - 7) as a member of a family of an alien referred to in art. 54 intends to arrive on the territory of the Republic of Poland resides on that territory;
  - 8) is a minor, born on the territory of the Republic of Poland, child of an alien, and resides on that territory without care;
  - 9) is a spouse or an adult child of an alien referred to in art. 54 and has resided on the territory of the Republic of Poland for a period of at least five years on the

basis of permits to reside for a fixed period, granted because of the circumstances referred to in p.7;

- 10) resides on the territory of the Republic of Poland on the basis of permit to reside for a fixed period granted because of circumstances referred to in p.6, in case of widowhood or divorce, separation or death of his/her direct descendant or ascendant, if it is in good interest of an alien;
- 11) resides on the territory of the Republic of Poland on the basis of permit to reside for a fixed period, granted because of the circumstances referred to in p. 7, in case of widowhood or divorce, if it is in good interest of an alien;
- 12) is a minor, born on the territory of the Republic of Poland, child of an alien possessing the permit to reside for a fixed period;
- 13) possesses a long-term resident's EC residence permit granted by another member state of the European Union and is going to take up employment or carry out an economic activity in conformity with the regulations of the law in force in the Republic of Poland, to take up or continue studies or professional training, or demonstrates that there are circumstances that justify his / her residence on the territory of the Republic of Poland;
- 14) is a member of a family of an alien referred to in p.13, with whom he/she has resided on the territory of another member state of European Union, who accompanies an alien or intends to join him/her;
- 15) is a victim of trafficking in human beings within the meaning of Council Framework Decision of 19 July 2002 on combating trafficking in human beings (O.J. EC L 203 of 1.08.2002), and fulfils jointly the following conditions:
  - a) resides on the territory of the Republic of Poland;
  - b) has undertaken cooperation with an authority competent with respect to conduct procedure on combating trafficking in human beings;
  - c) has terminated contacts with persons suspected of committing related to trafficking in human beings;

if circumstance, on which he / she applies for this permit justifies his / her residence within the territory of the Republic of Poland for the period exceeding 3 months.

2. With reservation to sec. 3, as a member of the family of an alien referred to in sec. 1 p. 13 and art. 54 shall be regarded:

- 1) a person married to an alien, such marriage being recognised under the Polish law in force;
  - 2) a minor child of an alien and person married to an alien, such marriage being recognised under the Polish law in force, including an adopted child;
  - 3) a minor child of an alien, including his/her adopted child, if the alien exercises actual parental control over the child;
  - 4) a minor child of a person referred to in p.1, including his/her adopted child, if he/she supports and exercises actual parental control over the child.
3. As a member of family of minor alien who has been granted refugee status and resides on the territory of the Republic of Poland without care shall be also regarded his/her direct ascendant.
4. An alien referred to in sec. 1 p.1 who carries out or intends to carry out work in the limited partnership, limited liability or stock company established by him / her; or in the company he / she joined, covered or purchased its shares, only if he / she demonstrates that operation of this company or partnership meets conditions referred to in sec. 1 p. 2.
5. The residence permit for a fixed period may be granted to an alien, who:
- 1) intends to take up or to continue studies or professional training on the territory of the Republic of Poland;
  - 2) demonstrates that due to the circumstances other than referred to in p. 1 and sec. 1, his / her residence on the territory of the Republic of Poland is justified within the period exceeding 3 months.
6. An alien is obliged to confirm his/her will to take up or continue studies on the territory of the Republic of Poland by providing a certificate of admission to studies, issued by institution appropriate for his / her studies.
7. An alien referred to in sec. 1 p. 1, 2, 7, 9, 13 and 14 and in sec. 5 is obliged to possess:
- 1) stable and regular source of income enough to cover the cost of maintenance of an alien and members of his/her family supported by him/her.
  - 2) health insurance within the meaning of provisions on common health insurance or documents confirming that the costs of medical treatment on the territory of the Republic of Poland shall be covered by an insurer.
8. The condition referred to in sec. 7 p. 1 shall be fulfilled also if the costs of alien's maintenance are covered by a member of his/her family obliged to maintain him/her, who is in position to fulfil this obligation.

9. Provisions referred to in sec. 7 shall not apply to an alien applying for granting a residence permit for a fixed period on the basis of sec. 1 p. 7, being a member of the family of an alien, who has been granted the refugee status, if an application for granting a residence permit for a fixed period has been submitted within the period of 3 months from the date of granting such a status.

10 .An income referred to in sec. 7 p.1, must be – after deduction of costs of accommodation – for each member of family supported by an alien, or for an alien if he/she is a single person, higher than the amount of income being a basis for granting social assistance pursuant to the provisions of Act of 12 march 2004 on Social Assistance (J.L. No 64, it. 593, No 99, it.1001 and it. 273, it.2703 and of 2005 No 64 it.565).

#### **Art. 54**

A residence permit for a fixed period, referred to in art. 53 sec. 1 p.7, shall be granted to an alien residing on the territory of the Republic of Poland:

- 1) on a basis of permit to settle;
- 2) on a basis of long-term resident's EC residence permit;
- 3) who has been granted refugee status;
- 4) at least for two years on the basis of residence permit for a fixed period, if directly before submitting an application for granting a residence permit for a fixed period for a member of his/her family he/she resided on this territory on the basis of permit to reside for a fixed period granted for at least one year.

1.

#### **Art. 55**

1. The authority conducting the proceedings on granting the residence permit for a fixed period to an alien being a spouse of Polish citizen or of an alien residing on the territory of the Republic of Poland, referred to in art. 54, checks whether the marriage has not been concluded for the purpose of abuse by an alien the provisions on granting a residence permit for a fixed period on the territory of the Republic of Poland, if the circumstances of the case demonstrate that:

- 1) one of the spouses has accepted material profit in return for expressing a consent to conclude the marriage unless it is an established custom in the state or social group concerned;
- 2) there is the lack of an appropriate contribution to the responsibilities arising from the marriage;
- 3) the spouses do not maintain matrimonial cohabitation;
- 4) the spouses have never met before their marriage;
- 5) the spouses do not speak a language understood by both;
- 6) the spouses are inconsistent about their respective personal data and other important personal information concerning them;
- 7) the past history of one or both of the spouses contains evidence of previous marriage of convenience.

2. When performing activities aimed to check the circumstances referred to in sec. 1, art. 79 of the Code of Administrative Procedure shall not apply.

#### **Art. 56**

1. The residence permit for a fixed period shall be any time granted for a period necessary to realise the purpose of an alien's residence on the territory of the Republic of Poland, not exceeding 2 years.
2. The residence permit for a fixed period shall be granted to:
  - 1) an alien referred to in art. 53 sec. 1 p. 7, till the date of expiry of the permit to reside for a fixed period granted to an alien, whom he/she intends to join or has joined for the purpose of family reunification. If an alien referred to in art. 53 sec. 1 p. 7 has been granted the long-term resident's EC residence permit or the refugee status in the Republic of Poland, the permit to reside for a fixed period shall be granted for the period of 2 years.
  - 2) a minor referred to in art. 53 sec. 1 p. 12 till the date of expiry of the permit to reside for a fixed period granted to his/her legal guardian
  - 3) a member of the family of an alien referred to art. 53 sec. 1 p.13, till the date of expiry of the permit to reside for a fixed period granted to this alien

- 4) an alien referred to in art. 53 sec.1 p. 15, for the period of 6 months
- 5) an alien referred to in art. 53 sec. 5 p.1, for the period of one year”

## **Art. 57**

1. An alien shall be refused the residence permit for a fixed period, if :

- 1) he/she does not fulfil the conditions referred to in art. 53;
- 2) his / her data is recorded in the register of aliens, whose residence on the territory of the Republic of Poland is undesirable;
- 3) circumstances of the case demonstrate, that the purpose of his/her entry into or residence on the territory of the Republic of Poland is or will be other than the one declared,
- 4) he/she applies for the permit on the basis of the marriage concluded with a Polish citizen or an alien residing on the territory of the Republic of Poland, referred to in art. 54 , if the marriage has been concluded for the purpose of abuse by an applicant the provisions on granting the residence permit for a fixed period;
- 5) it is justified by the state security and defence as well as by the public security and policy or if it would be in breach of the interests of the Republic of Poland.
- 6) during the procedure for granting the residence permit for a fixed period an alien:
  - a) has submitted the application or documents which contain untruthful personal data or false information
  - b) has testified untruthfully or has concealed the truth or has falsified or counterfeited a document for the purpose of using it as authentic or has used such document as authentic.
- 7) he/she has been diagnosed the illness or infection, that is the subject of obligatory medical treatment according to the act of 6 September 2001 on diseases and infections (J.L. No 126, it. 1348 and of 2003 No 45, it. 391) or there is a suspicion of such disease or infection and the alien refuses to undergo medical treatment;
- 8) he/she does not perform fiscal obligations to the State Treasury;
- 9) he / she resides illegally on the territory of the Republic of Poland.

2. An alien staying on the territory of the Republic of Poland on the basis of visa referred to in article 32 sec.3 shall be refused a residence permit for a fixed period, if he/she applies for this permit on the basis of reasons referred to in article 53

sec.1 p. 1 or 2.

3. An alien, who is a spouse of a Polish citizen or a person who has been granted the permit to settle or the long-term resident's EC residence permit on the territory of the Republic of Poland must not be refused a residence permit for a fixed period, only on the basis of one of the reasons referred to in sec. 1 p. 3 and 7-9.
4. An alien referred to in art. 53 sec. 1 p. 7 and 13 as well as a member of the family of an alien referred to in art. 53 sec. 1 p. 13 must not be refused a subsequent residence permit for a fixed period only on the basis of one of the reasons referred to sec. 1 p. 7.
5. An alien referred to in art. 53 sec. 1 p. 15 must not be refused a residence permit for a fixed period only on the basis of one of the reasons referred to in sec. 1 p. 7 or p. 9.
6. In the decision on refusal of the residence permit for a fixed period issued to an alien staying on the territory of the Republic of Poland, whose residence is undesirable, the alien may be obliged to leave this territory within the period indicated.
7. Provisions regulating proceedings on obligation to leave the territory of the Republic of Poland shall apply mutatis mutandis to decisions on refusal of the residence permit for a fixed period, which oblige the alien to leave the territory of the Republic of Poland.

#### **Art. 58**

1. The residence permit for a fixed period granted to an alien shall be withdrawn, if:
  - 1) the reason, for which such a permit had been issued, ceased to exist;
  - 2) any of the circumstances referred to in art. 57 sec.1 p.2-9 has arisen;
  - 3) the alien has used the permit to realise the purpose other, than the one for which it was granted;
  - 4) an alien left the territory of the Republic of Poland definitively.
2. To proceedings on withdrawal of a residence permit for fixed period shall apply mutatis mutandis provisions of art. 57 sec. 3-5.
3. (deleted)
4. An alien staying on the territory of the Republic of Poland, whose residence is undesirable may be obliged, in the decision on withdrawal of the residence permit for a fixed period, to leave this territory within the time limit indicated in the decision.

5. Provisions regulating proceedings in cases of obligation to leave the territory of the Republic of Poland shall apply mutatis mutandis to decisions on withdrawal of a residence permit for a fixed period, which oblige the alien to leave the territory of the Republic of Poland.

#### **Art. 59**

An alien is obliged to leave the territory of the Republic of Poland prior to expiry of the validity of the residence permit for a fixed period, unless he/she was granted the successive residence permit for a fixed period or the permit to settle.

#### **Art. 60**

1. The residence permit for a fixed period shall be granted upon an alien's application.
2. The permit to reside for a fixed period, referred to in art. 53 sec. 1 p. 7 shall be granted at the request of an alien residing on the territory of the Republic of Poland, referred to in art. 54. For granting a residence permit for a fixed period to a minor referred to in art. 53 sec. 2 p. 3 and 4, the consent of a person that exercises parental control over him/her is required.
3. An application for granting a residence permit for a fixed period, referred to in sec. 1 p. 1, may apply to an alien's children or other persons being under his / her care.
4. An application for granting the residence permit for a fixed period shall include:
  - 1) personal data of an alien and his / her children referred to in application as well as other persons recorded in the travel document of an alien - in the scope necessary to render the permit;
  - 2) indication of the intended place of residence on the territory of the Republic of Poland;
  - 3) name, family name, date of birth, sex, citizenship and the place of residence of members of an alien's family residing in the Republic of Poland as well as a degree of relationship with the alien;

- 4) information of:
  - a) abroad travels and stays within the last 5 years,
  - b) previous stays in the territory of the Republic of Poland;
- 5) indication of means of maintenance.

4a. An application for granting the residence period for a fixed period shall be submitted with the use of a specified application form.

5. An alien is obliged to provide a valid travel document and enclose to the application:

- 1) the photographs of the persons referred to in the application;
- 2) the documents necessary to confirm the data referred to in the application and circumstances justifying his / her application for granting the residence permit for a fixed period.

5a. An alien referred to in art. 53 sec. 1 p. 1, 2, 7, 9, 13 and 14 is obliged to enclose to an application also a legal title authorising him / her to occupy a place of accommodation in which he/she resides or intends to reside as well as documents confirming the costs of accommodation.

5b. A contract of loan for use shall not be regarded as a legal title to a dwelling in which an alien resides or intends to reside unless a loaner is an alien's descendant, ascendant, siblings, spouse or spouse's parents.

6. In particularly justified case, if an alien does not possess a valid travel document and has no possibility to obtain such a document, he / she may provide another document confirming his / her identity.

## **Art. 61**

1. An alien residing on the territory of the Republic of Poland is obliged to submit an application for granting the residence permit for a fixed period at least 45 days prior to the expiry of the period of stay specified in the visa possessed or the period of the validity of the previous residence permit for a fixed period.

- 1a. An application submitted by the alien residing on the territory of the Republic of Poland on the basis of the visa referred to in art. 33 shall be left unacknowledged, unless an alien applies for granting the residence permit for a fixed period on the basis of art. 53 sec. 1 p. 15.
2. The voivod shall render the decision on granting the residence permit for a fixed period prior to expiry of the period of residence on the basis of a visa or the residence permit for a fixed period possessed by an alien, if an application has been submitted within time limits specified in sec. 1.
3. In the case when rendering of the decision with respect to conditions referred to in sec. 2 is not possible, a voivod shall issue to the alien a new visa. The new visa may not expire prior to the completion of the first instance proceedings.
4. In the case the term for submitting an application referred to in sec. 1 is not complied, an alien is obliged to leave the territory of the Republic of Poland prior to expiry of the period of residence indicated in a visa or in the residence permit for a fixed period, if the proceedings on granting the residence permit for a fixed period has not been completed prior the expiry of that period of residence.

## **Art. 62**

1. A decision on issue of a permit to reside for a fixed period shall be rendered by the voivod competent with respect to the place of the alien's intended residence.
2. An alien residing abroad shall submit an application for granting a permit to reside for a fixed period through the consul. The consul shall enclose to an application the information, whether entry and residence of an alien on the territory of the Republic of Poland shall constitute a threat to the state security and defence as well as to the public security and policy.
3. Prior to rendering the decision on issue of a permit to reside for a fixed period, the voivod competent with respect to the place of alien's intended residence shall be obliged to request to Commandant in Chief of the Border Guard division, the Commanding Officer of the Voivodship Police Headquarter, The Chief of Internal Security Agency and - if necessary – the consul competent with respect to alien's last place of residence abroad or other agencies, for information whether entry and residence of an alien on the territory of the Republic of

Poland shall constitute a threat to the state security and defence as well as to the public security and policy.

4. The voivod competent with respect to alien's intended place of residence shall inform the Chief of Internal Security Agency about the submission of the application for the issue of a residence permit for a fixed period as well as about the settlement of the request, in cases other than granting a permit to an alien.

5. The authorities referred to in art. 3, within the time limit of 30 days, are obliged to present the opinion or to make information possessed available in the scope necessary to determine if entry and residence of an alien on the territory of the Republic of Poland shall constitute a threat to the state security and defence as well as to the public security and policy.

6. If the authorities referred to in sec. 3 do not present the opinion or do not make information possessed available within the time limit of 30 days, it shall be presumed that the required opinion or information has been obtained.

7. In particularly justified cases, the time limit referred to in sec. 5 may be extended up to 3 months. This fact shall be notified, by an authority obliged to present its opinion or information possessed, to the voivod.

8. The decision on withdrawal of a residence permit for a fixed period shall be rendered by the voivod competent with respect to an alien's place of residence or - in the case when an alien has left definitively the territory of the Republic of Poland - by the voivod who had issued such a permit.

9. The voivod shall inform:

1) The President of the Office for Repatriation and Aliens about:

a) granting the residence permit to an alien referred to in art. 53 sec. 1 p. 13,

b) refusal of granting of the residence permit for a fixed period to an alien referred to in art. 53 sec. 1 p. 13 or a member of his/her family;

c) on withdrawal of the residence permit for a fixed period to an alien referred to in art. 53 sec. 1 p. 13 or a member of his/her family

2) the Commandant in Chief of the Border Guard and the commanding officer of the Voivodship Police headquarter about withdrawal of the residence permit for a fixed period.

## **Art. 63**

1. The minister competent with respect to internal affairs shall specify, by means of an ordinance, the pattern of an application form for granting the residence permit for a fixed period, number and requirements related to the photographs enclosed to the application. The provisions of the ordinance shall take into account the alien's data referred to in art. 12, in the scope necessary to grant the residence permit for a fixed period as well as data referred to in art. 60 sec. 4.
2. The minister competent with respect to higher education, acting in consultation with the minister competent with respect to internal affairs, shall specify, by means of an ordinance, the pattern of certificate of admission to studies, issued by institution appropriate for the studies. The certificate shall include, in particular: name and family name of an alien, date and place of his / her birth, citizenship, name and address of institution appropriate for the studies, the date of commencement of the course and the length of the course for which an alien has been admitted.
3. The certificate referred to in sec. 2 should specify types and subject of studies or vocational specialities.

## **Chapter 5**

### **The permit to settle and the long-term resident's EC resident permit**

#### **Art. 64**

1. The permit to settle shall be granted to an alien, who :
  - 1) is a minor, born on the territory of the Republic of Poland, child of an alien possessing a permit to settle;
  - 2) has been married to a Polish citizen for at least 3 years, if directly before submitting the application he / she had resided continuously on the territory of the Republic of Poland for at least 2 years on the basis of the residence permit for a fixed period;
  - 3) directly before lodging an application has resided on the territory of the Republic of Poland continuously for at least 10 years on the basis of permit for tolerated stay or at least 5 years if he / she has been granted the refugee status;

4) is a minor child of the citizen of the Republic of Poland, if the parent exercises parental authority over the child.

2. An alien residing on the territory of the Republic of Poland in connection with granting the refugee status or the permit for tolerated stay granted in connection with examining his/her application for refugee status, shall be included to the period of continuous residence, referred to in sec. 1 p.3 also the period of residence during the proceedings on granting the refugee status, even if an alien has been placed in the guarded centre or in the arrest for the purpose of expulsion during this period.

3. To proceedings in the case of granting a permit to settle to an alien married to a Polish citizen, provisions of art. 55 shall apply.

4. The residence of an alien on the territory of the Republic of Poland shall be regarded as continuous if an alien has not been absent from the territory of the Republic of Poland for a period exceeding 6 months or 10 months jointly during the periods referred to in sec. 1 p. 2 or 3, unless the reason of his / her absence was:

1) performance of occupational obligations or work on the basis of a contract concluded with an employer whose seat is placed in the territory of the Republic of Poland;

2) accompanying of a spouse performing his / her occupational obligations or work in circumstances referred to in p.1;

3) the need to obtain a travel document;

4) medical treatment.

5. The permit to settle shall be granted for unlimited period of time.

6. The permit to settle shall be deleted by virtue of law at the day of obtaining the long-term resident's EC residence permit by the alien.

## **Art. 65**

1. A long-term resident's EC residence permit shall be granted to an alien residing legally and continuously on the territory of the Republic of Poland for a period of at least 5 years, who possesses:

1) stable and regular source of income enough to cover the cost of maintenance of an alien and members of his/her family supported by him/her

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

2. The provisions of sec. 1 shall not apply to the alien:
  - 1) who undertakes studies or professional training;
  - 2) who has been granted the permit for tolerated stay or the refugee status in the Republic of Poland or the temporary protection;
  - 3) who applies for granting refugee status or asylum;
  - 4) who works as “au pair worker”, seasonal worker or a worker posted by a service provider for the purposes of cross-border provisions of services, or as cross-border provider of services;
  - 5) who resides on the territory of the Republic of Poland on the basis of the visa referred to in art. 33 or the permit to reside for a fixed period granted on the basis of art. 53 sec. 1 p.7.;
  - 6) referred to in art. 110.
3. An income referred to in sec. 1 p.1, must be – after deduction of costs of accommodation – for each member of family supported by an alien or for an alien if he/she is a single person, higher than the amount of income being a basis for granting social assistance pursuant to the provisions of Act of 12 march 2004 on Social Assistance (J.L. No 64, it. 593, No 99, it.1001 and it. 273, it.2703 and of 2005 No 64 it.565).
4. The period referred to in sec. 1 shall not include the period of an alien’s residence
  - 1) for which alien has been detained, preliminary detained, placed in a guarded centre or in arrest for the purpose of deportation or has been deprived of freedom on the basis of orders given pursuant to the laws;
  - 2) as “au pair worker”, seasonal worker or a worker posted by a service provider for the purposes of cross-border provisions of services, or as cross-border provider of services;
  - 3) on the basis of a visa referred to in art. 33 or the residence permit for a fixed period granted on the basis of art. 53 sec. 1 p.7.;
  - 4) as a head of diplomatic mission, member of staff of diplomatic missions, head of consular post, member of consular staff of foreign states and other person treated equally under applicable laws, treaties or generally recognised international customs
5. The period referred to in sec. 1 shall include half of the period of an alien’s residence on the basis of visa issued in connection with studies or professional training or half of the period of residence permit for a fixed period granted in connection with circumstances referred to in art. 53 sec. 5 p.1.

6. For the purpose of determining whether alien's residence on the territory of the Republic of Poland is continuous provisions of art. 64 sec.4 shall apply.
7. Long-term resident's EC residence permit shall be granted for unlimited period of time.

#### **Art. 66**

1 An alien shall be refused a permit to settle, if:

- 1) he/she does not meet the requirements specified in art. 64 sec. 1;
- 2) his / her data is recorded in the index of aliens whose residence in the territory of the Republic of Poland is undesirable;
- 3) it is justified by the state security and defence as well as by the public security and policy or the interests of the Republic of Poland;
- 4) he/she applies for the permit on the basis of the marriage concluded with a Polish citizen, if the marriage has been concluded for the purpose of abuse by an applicant the provisions on granting a residence permit for a fixed period or permit to settle;
- 5) during the procedure for granting a permit to settle:
  - a) he / she has submitted the application or documents which contain spurious personal data or false information
  - b) he / she has testified untruthfully or has concealed the truth or has falsified or changed a document or has used such document as authentic;
- 6) he/she does not perform fiscal obligations to the State Treasury.

#### **Art. 67**

An alien shall be refused a long-term resident's EC residence permit, if:

- 1) he/she does not meet the requirements specified in art. 65 sec. 1;
- 2) it is justified by the state security and defence as well as by the public security and policy.

#### **Art. 68**

1 An alien shall be withdrawn a permit to settle, if:

- 1) it is justified by the state security and defence as well as by the public security and policy or the interests of the Republic of Poland.

- 2) during the procedure for granting a permit to settle has testified untruthfully or has concealed the truth or has falsified or changed a document or has used such document as authentic;
  - 3) he / she has been sentenced by a final sentence of Polish court to at least 3 years of imprisonment for committing an intentional crime;
  - 4) he / she has left definitively the territory of the Republic of Poland.
2. In cases referred to in sec. 1 p. 1-3, in decision on withdrawal of a permit to settle, issued to an alien residing on the territory of the Republic of Poland, the alien shall be obliged to leave this territory within the period indicated.
3. To proceedings on withdrawal of a permit to settle, which oblige the alien to leave the territory of the Republic of Poland, shall apply mutatis mutandis provisions regulating proceedings in cases on expulsion.

#### **Art. 69**

1. An alien shall be withdrawn a long-term resident's EC residence permit, if:
  - 1) he/she has obtained such a permit fraudulently;
  - 2) he/she constitutes a real and serious threat to the state security and defence as well as to the public security and policy;
  - 3) he/she has left the territory of the Republic of Poland for the period exceeding 6 years;
  - 4) he/she has left the territory of the European Union for the period of consecutive 12 months;
  - 5) he/she has been granted a long-term resident's EC residence permit in other member state of the European Union.
2. An authority conducting proceedings in the case of withdrawal of long-term resident's EC residence permit shall take into account, if circumstances referred to in sec.1 p. 2 apply:
  - 1)the duration of alien's residence on the territory of the Republic of Poland,
  - 2)the age of an alien
  - 3)existence of links with the Republic of Poland or the absence of links with the country of origin
  - 4)the consequence for an alien and his/her family caused by withdrawal of the permit.

3. In the decision of withdrawal of long-term resident's EC residence permit issued according to the provisions of sec.1 an alien shall be obliged to leave the territory of the Republic of Poland within the period indicated

4. To proceedings in case of withdrawal of long-term resident's EC residence permit the part relating to an obligation to leave the territory of the Republic of Poland shall apply provisions on proceedings in case of expulsion, with exception of art. 90 sec. 2.

#### **Art. 70**

If a long-term resident's EC residence permit has been withdrawn because of reasons referred to in art. 69 sec.1 p. 3-5, a subsequent long-term resident's EC residence permit shall be granted if an alien fulfils conditions referred to in art. 65, with the reservation, that directly before the submission of a subsequent application he/she should reside legally and continuously on the territory of the Republic of Poland for a period of at least 3 years.

#### **Art. 71**

1. The permit to settle or the long-term resident's EC residence permit shall be granted at alien's request.

2. The application for granting a permit to settle may apply to an alien's children or other persons being under his/her care.

3. The application referred to in sec. 1 shall specify:

1) personal data of an alien - in the scope necessary for issue of a permit;

2) personal data of children referred to in application as well as other persons recorded in the travel document of an alien- in the scope necessary for issue of a permit, in case of the application for permit to settle;

3) information on abroad travels and stays within the last 5 years,

4. An application for granting long-term resident's EC residence permit shall be submitted with the use of a specified application form.

5. An alien shall be obliged to justify the application, provide a valid travel document and enclose to the application:

1) the photographs of the persons referred to in the application

2) the documents necessary to confirm the data referred to in the application circumstances justifying his/her application for granting a permit to settle or a long-term resident's EC residence permit.

3) the legal title authorising him / her to occupy a place of accommodation in which he/she resides or intends to reside as well as documents confirming the costs of accommodation.

6. A contract of loan for use shall not be regarded as a legal title to a dwelling in which an alien resides or intends to reside unless a loaner is an alien's descendant, ascendant siblings, spouse or spouse's parents.

7. In particularly justified case, if an alien does not possess a valid travel document and has no possibility to obtain it, he / she may present another document conforming his / her identity.

#### **Art. 71a.**

1. An alien may submit the application for the permit to settle or a long-term resident's EC residence permit if he/she resides legally on the territory of the Republic of Poland.

2. An application for granting the long-term resident's EC residence permit submitted by an alien residing on the territory of the Republic of Poland on the basis of a visa referred to in art. 33 or by an alien referred to in sec. 110, as well as an application for granting the long-term resident's EC residence permit submitted by an alien referred to in art. 65 sec.2 p.1-4 or residing on the territory of the Republic of Poland on the basis of a permit to reside for a fixed period granted on the basis of art. 53 sec.1 p.7 shall be left unacknowledged.

3. If a final decision on granting the permit to settle or the long-term resident's EC residence permit has not been rendered prior to expiry of the period of alien's legal residence on the territory of the Republic of Poland, a voivod shall issue to him/her a visa for the period of residence till the issue of final decision.

#### **Art. 71b.**

1. A decision on granting a permit to settle or a long-term resident's EC residence permit shall be rendered by the voivod competent with respect to the place of the alien's intended residence.

2. Prior to rendering the decision on granting a permit to settle or a long-term resident's EC residence permit the voivod competent with respect to the place of alien's intended residence is obliged to request to Commandant in Chief of the Border Guard division, the Commanding Officer of the Voivodship Police Headquarter, the Chief of Internal Security Agency and - if necessary - other agencies, for information whether entry and

residence of an alien on the territory of the Republic of Poland shall constitute a threat to the state security and defence as well as to the public security and policy.

3. The voivod competent with respect to alien's intended place of residence shall inform the Chief of Internal Security Agency about the submission of the application for the permit to settle or a long-term resident's EC residence permit, as well as about the settlement of the request, in cases other than granting a permit to an alien

4. The authorities referred to in sec.2, within the time limit of 30 days, are obliged to present the opinion or to make information possessed available in the scope necessary to determine if entry and residence of an alien on the territory of the Republic of Poland shall constitute a threat to the state security and defence as well as to the public security and policy.

5. If the authorities referred to in sec. 2 do not present the opinion or do not make information possessed available within the time limit of 30 days, it shall be presumed that the required opinion or information has been obtained.

6. In particularly justified cases, the time limit referred to in sec. 4 may be extended up to 3 months. This fact shall be notified, by an authority obliged to present its opinion or information possessed, to the voivod.

7. The decision on withdrawal of a permit to settle or a long-term resident's EC residence permit shall be rendered by the voivod competent with respect to an alien's place of residence, ex officio or at the request of the Minister of National Defence, The Chief of Internal Security Agency, the Commandant in Chief of the Border Guard, the Commandant in Chief of the Police, the commanding officer of the Boarder Guard division, or the commanding officer of the Voivodship Police Headquarter.

8. A voivod shall inform the President of the Office for Repatriation and Aliens about granting a long-term resident's EC residence to an alien, if he/she possess such a permit granted by another member state of the European Union.

### **Art. 71c**

The decision in case for granting a long-term resident's EC residence permit shall be rendered within the period of 3 months from the date of submission of application, and in the appeal procedure – within the period of 2 months from the date of receiving an appeal.

### **Art. 71d**

The minister competent with respect to internal affairs shall specify, by means of an ordinance, the patterns of an applications form for granting a permit to settle and long-term resident's EC residence permit as well as the number and requirements of the photographs enclosed to the application. An application shall specify an aliens' data referred to in art. 12 in the scope necessary to granting a permit to settle or long-term resident's EC residence permit as well as data referred to in art. 71 sec.3.

## **Chapter 6**

### **The residence card and other documents issued to aliens**

#### **Art. 72**

1. The residence card shall be issued to an alien, who was granted:

- 1) the residence permit for a fixed period;
- 2) the permit to settle;
- 3) the long-term resident's EC resident permit;
- 4) the refugee status;
- 5) the permit for tolerated stay.

2. Within the period of its validity the residence card shall confirm the identity of the alien during the period of his/her residence in the territory of the Republic of Poland as well as - accompanied with the travel document - shall authorise an alien to multiple border crossing without the need of being issued a visa.

3. The residence card issued to an alien who has been granted:

- 1) the residence permit for a fixed period shall be valid for the period of validity of this permit

2)the permit to settle, shall be valid for a period of 10 years

3)the long-term resident's EC residence permit, shall be valid for a period of 5 years

### **Art. 73**

1. The Polish travel document for an alien shall be issued, at his / her request, to an alien possessing a permit to settle or a long-term resident's EC residence permit, who has lost his/her travel document or whose travel document was destroyed or its validity time expired if obtaining a new travel document by that alien is not possible.
2. The Polish travel document for an alien, within the period of its validity, shall entitle his holder to multiple border crossing.
3. The Polish travel document for an alien shall be valid for the period not exceeding 2 years.
4. An alien who was issued the Polish travel document for an alien shall not be exempted from the obligation to undertake appropriate steps to obtain the travel document.

### **Art. 74**

1. The identity Polish document for an alien may be issued to a minor alien born on the territory of the Republic of Poland and residing on this territory without the parental care, if he / she does not possess a travel document and obtaining a different travel document by that alien is not possible. The identity Polish document may be issued if it is not in contrary to the interest of the Republic of Poland and its issue is justified by the interest of the child.
2. In particularly justified cases, if it is in good interest of the Republic of Poland, an alien who does not possess citizenship of any country and resides on the territory of the Republic of Poland without having a travel document may be issued the identity Polish document for an alien, if obtaining by that alien a new document confirming his / her identity is not possible.
3. The identity Polish document for an alien shall be valid for one year. After expiry of its validity, the successive document may be issued for a period not exceeding 2 years.
4. The identity Polish document for an alien shall be issued:
  - 1) in the case referred to in sec. 1 - ex officio or upon an application of a legal representative of a minor.

- 2) in the case referred to in sec. 2 – upon an application of an alien.
5. The identity Polish travel document for an alien shall confirm the identity of the alien within the period of his/her residence in the territory of the Republic of Poland but shall not confirm his / her citizenship. That document does not entitle to cross the border.
6. An alien who was issued the identity Polish document for an alien shall not be exempted from the obligation to obtain a visa, the residence permit for a fixed period, the permit to settle or the long-term resident's EC residence permit..

#### **Art. 75**

1. The provisional travel document for an alien shall be issued to an alien possessing a permit to settle or the long-term resident's EC residence permit, if he / she staying abroad has lost his/her travel document or whose travel document was destroyed or its validity time expired if that alien intends to return to the territory of the Republic of Poland and obtaining by him / her another travel document is not possible.
2. The provisional travel document for an alien may be issued to an alien residing on the territory of the Republic of Poland, who does not possess the travel document of his / her country of origin or whose travel document was destroyed or its validity time expired if that alien intends to depart from the territory of the Republic of Poland and obtaining by him / her another travel document is not possible.
3. The provisional Polish travel document for an alien shall be issued upon an application of an alien. An alien referred to in sec. 2 may also be issued that document ex officio.
4. The provisional Polish travel document for an alien shall authorise an alien
  - a) referred to in sec. 1 - to single entry into the territory of the Republic of Poland;
  - b) referred to in sec. 2 - to depart from the territory of the Republic of Poland.
5. The provisional Polish travel document for an alien shall be valid for the period specified in that document, however not exceeding 7 days.

#### **Art. 76**

1. The following data shall be entered on the residence card:
  - 1) name (names) and family name of an alien as well as his / her parents' names;
  - 2) date, place and country of birth;
  - 3) address of registration for the permanent or temporary residence; the data concerning address shall not be entered if an alien has not registered for a temporary residence of a period exceeding 2 months;

- 4) citizenship;
  - 5) sex, height in centimetres and colour of the eyes;
  - 6) if specified, personal number of Public Electronic System of Population Evidence (*Powszechny Elektroniczny System Ewidencji Ludności - PESEL*);
  - 7) information of the type of the permit.
2. The following data shall be entered on the Polish travel document for an alien:
    - 1) name (names) and family name of an alien;
    - 2) date, place and country of birth;
    - 3) citizenship;
    - 4) sex;
    - 5) names, family names, date, place of births and sex of minors accompanying an alien or other minors remaining under his / her care.
  3. The following data shall be entered on the identity Polish document for an alien:
    - 1) name (names) and family names of an alien as well as his / her parents' names;
    - 2) date, place and country of birth;
    - 3) address of registration for the permanent or temporary residence; the data concerning address shall not be entered if an alien has not registered for a temporary residence of a period exceeding 2 months;
    - 4) sex, height in centimetres and colour of the eyes;
  4. The following data shall be entered on the provisional Polish travel document for an alien:
    - 1) name (names) and family name of an alien;
    - 2) date, place and country of birth;
    - 3) citizenship;
    - 4) sex, height in centimetres and colour of the eyes;
    - 5) names, family names, date, place of births and sex of minors accompanying an alien or other minors remaining under his / her care.
  5. The residence card and the documents referred to in sec. 2-4 shall also indicate the name of the issuing authority, the date of issue and the relevant expiry date. The residence card and the documents mentioned above may also contain the photograph and signature of the holder as well as the coded record of the data referred to in sec. 1-4.
  6. The documents referred to in sec. 2-4 may also contain the photographs of the children accompanying an alien or other minors remaining under his / her care.
  7. The provisional Polish travel document for an alien may also contain the name, family name, official position and signature of the person issuing the document.

**Art. 77**

1. An alien shall be obliged to exchange his / her residence card, Polish travel document for an alien or identity Polish document for an alien, in case of:
  - 1) change of data entered on the document;
  - 2) change of an alien's appearance which make the confirming of his / her identity difficult;
  - 3) damage of those documents which make their use difficult;
  - 4) the expiry of the validity of the residence card issued in connection with granting the permit to settle or the long-term resident's EC residence permit;
  - 5) loss or destruction of those documents.

**Art. 78**

1. Applications for: issue and exchange of the Polish travel document for an alien or the identity Polish document for an alien, issue of the provisional Polish travel document for an alien, exchange of the residence card issued in connection with the permit to settle shall include:
  - 1) data of an alien and his / her children referred to in application as well as other persons recorded in the travel document of an alien - in the scope necessary for issue or exchange of the residence card or the document;
  - 2) address of registration for the permanent or temporary residence for a period exceeding 2 months;
2. An alien shall be obliged to provide a document confirming his / her identity, and an alien applying for the exchange of a residence card shall provide a valid travel document, and enclose to the application:
  - 1) photographs of persons referred in the application.
  - 2) documents confirming data and circumstances quoted in the application.
3. In particularly justified case, if an alien does not possess a valid travel document and has no possibility to obtain such a document, he / she may provide another document confirming his / her identity.

**Art. 79**

1. An alien who has lost his / her residence card is obliged to report this fact to the voivod who had issued the card, within the period of 3 days from the date of its loss.

2. If the lost residence card has been found an alien is obliged to report this fact to the voivod within the period of 3 days from its finding. If alien has been issued a new card, he / she is obliged to return the found one immediately.
3. Provisions of sec. 1 and 2 shall apply mutatis mutandis in cases when the identity Polish travel document for an alien or the Polish travel document for an alien has been lost.

#### **Art. 80**

1. An alien is obliged to return immediately :
  - 1) the residence card – after delivery of: the document confirming the acquisition of Polish citizenship, decision on withdrawal of the residence permit for a fixed period, the permit to settle or the long-term resident’s EC resident permit;
  - 2) the Polish travel document for an alien – after delivery of the travel document or after delivery of the decision on withdrawal of the permit to settle or the long-term resident’s EC resident permit;
  - 3) the identity Polish document for an alien – after delivery of the document confirming the acquisition of Polish citizenship or citizenship of another state.
2. The residence card, the Polish travel document for an alien and the identity Polish document for an alien shall be also returned in the event of the death of an alien. In those cases a person obliged to report the death pursuant to the provisions of civil state acts shall be also obliged to return those documents.
3. An alien leaving the territory of the Republic of Poland due to withdrawal of the residence permit for a fixed period, the permit to settle or the long-term resident’s EC resident permit shall be issued a certificate on return of the residence card, the Polish travel document for an alien or the identity Polish document for an alien. That certificate is valid to the time of leaving of the territory of the Republic of Poland.
4. The residence card and the documents referred to in sec. 1 shall be returned to the authority of their issue.

#### **Art. 81**

1. The residence card shall be issued by the voivod which has granted the residence permit for a fixed period, the permit to settle or the long-term resident’s EC resident permit.
2. The Polish travel document for an alien and the identity Polish document for an alien shall be issued by the voivod competent with respect to an alien’s place of residence.

3. The identity Polish document for an alien shall be issued after obtaining the consent of the President of the Office for Repatriation and Aliens.
4. The provisional Polish travel document for an alien shall be issued:
  - 1) abroad - by a consul;
  - 2) in the Republic of Poland - the voivod competent with respect to an alien's place of residence or - in particularly justified cases - by the commanding officer of the Border Guard checkpoint.
5. The residence card, the Polish travel document for an alien or the identity Polish document for an alien shall be exchanged by the voivod competent with respect to an alien's place of residence.
6. An alien is obliged to collect personally his/her residence card and other documents referred to in sec.2-5. In a case of a minor below an age of 13, a card shall be collected by his/her legal guardian or curator.

## **Art. 82**

Refusal of issue of the residence card, of the Polish travel document for an alien, of the identity Polish travel document for an alien or of the provisional travel document for an alien shall be effected by means of a decision.

## **Art. 83**

1. The residence card, the Polish travel document for an alien, the identity Polish travel document for an alien or the provisional travel document for an alien shall be issued and replaced only after the payment of the required fee.
2. Any fee shall not be paid for the issue of:
  - 1) the residence card and the documents referred to in sec. 1, if the ones issued previously included technical defects;
  - 2) the provisional Polish travel document for an alien, if it is issued to an alien being subject to expulsion from the territory of the Republic of Poland;
  - 3) the first residence card issued to an alien who was granted in the Republic of Poland:
    - a) the refugee status,
    - b) the permit to settle as a member of the closest family of the repatriant;

- c) the permit for tolerated stay.
  - 4) the identity Polish document for an alien, if it is issued ex officio.
3. The income deriving from the fee for the issue of the residence card or the documents referred to in sec. 1 shall constitute the revenue of the state budget.
4. The minister competent with respect to internal affairs, acting in consultation with the minister competent with respect to public finance matters, shall define, by means of an ordinance, the amount and manner of payment of fees charged in the Republic of Poland for the issue and exchange of the residence card, the Polish travel document for an alien and the identity Polish document for an alien as well as for the issue of the provisional Polish travel document for an alien.
5. In the ordinance the following issues shall be taken into account:
  - 1) the unit costs of the creation and issue or exchange of the residence card, the Polish travel document for an alien and the identity Polish document for an alien as well as of the issue of the provisional Polish travel document for an alien;
  - 2) the possibility of increasing of the fee for exchange of the residence card, the Polish travel document for an alien and the identity Polish document for an alien in the case when the loss or destruction of those documents has been caused by fault; the increasing of the fee shall be relevant to the number of events causing the necessity of issue of the new residence card or the new document;
  - 3) the cases, when the fee for exchange of the residence card, of the Polish travel document for an alien and of the identity Polish travel document for an alien shall be reduced as well as the documents justifying that reduction.

#### **Art. 84**

1. The minister competent with respect to internal affairs shall specify, by means of an ordinance:
  - 1) the patterns of the residence card, the Polish travel document for an alien, the identity Polish travel document and the provisional Polish travel document for an alien, taking into account the data referred to in art. 76;
  - 2) patterns of application forms for the issue and exchange of the Polish travel document for an alien, the identity Polish document for an alien, pattern of the application form for the issue of the provisional Polish travel document for an alien and the pattern of the application form for exchange the residence card

issued in connection with the permit to settle as well as the number and requirements of the photographs enclosed to the application.

2. The application form referred to in sec. 1 p. 2 shall include an alien's data referred to in art. 12 sec. 1, in the scope necessary to the issue and exchange of the residence card, the Polish travel document for an alien, the identity Polish document for an alien and the provisional travel document for an alien as well as the data referred to in art. 76 and art. 78 sec. 1.
3. In case of change of the pattern of the residence card, the Polish travel document for an alien, the identity Polish document for an alien or the provisional travel document for an alien, the ordinance referred to in sec. 1 may specify the term of validity of those residence cards or the documents issued on the blanks of existing pattern as well as the time limit up to which the blanks of existing pattern may be used.

#### **Art. 84 a**

1. Aliens being school pupils from third countries taking part in school trips from other member state of the European Union as well as conditions of stay of those aliens on the territory of the Republic of Poland pursuant to principles determined by provision of law of the European Union may be included in the list of travelers for school trips within the European Union issued by the director of a school.
2. Date concerning aliens included in the in the list of travelers for school trips within the European Union shall be confirmed, at the request of the school, by a voivod competent with respect to school's location.
3. The minister competent with respect to internal affairs, acting in consultation with the minister competent with respect to with respect to foreign affairs and minister competent with respect to education and, shall specify, by means of an ordinance a pattern of a form for list of travelers for school trips within the European Union, taking into account provisions of Annex to the 94/795/JHA: Council Decision of 30 November 1994 on a joint action adopted by the Council on the basis of Article K.3.2.b of the Treaty on European Union concerning travel facilities for school pupils from third countries resident in a Member State ( O.J. EC L of 19.12.1994).

## **Chapter 7**

## **The control of the legality of aliens' residence**

### **Art. 85**

1. The legality of aliens' residence on the territory of the Republic of Poland shall be carried out by the Border Guard and the Police.

1a. The legality of aliens' residence on the territory of the Republic of Poland may be carried out by the President of the Office for Repatriation and Aliens, the voivod, the agencies of the Customs Service, in the scope necessary for these authorities to conduct the proceedings in aliens' or customs cases.

2. The officer of the Customs Service, The Border Guard and the Police or the official entitled by the President of the Office for Repatriation and Aliens or the voivod may request an alien to present:

1) the documents and permits authorising an alien to the residence on the territory of the Republic of Poland;

2) the financial means necessary to cover the costs of residence on, transit through and depart from the territory of the Republic of Poland or the documents enabling an alien to obtaining the financial means, referred to in art. 15 sec. 1, if an alien resides on the territory of the Republic of Poland on the basis of the residence permit for a fixed period, a visa or an international agreement on partial or full abolition of visa requirement or on the basis of unilateral abolition of visa requirement pursuant to the provisions referred to in art. 51 sec. 3 and sec. 4.

### **Art. 86**

1. An alien who is subjected to the control of the legality of residence shall be obliged to present the document and the work permit as well as the financial means referred to in art. 15 sec. 1.

2. The obligation of present the financial means necessary to cover the costs of residence on the territory of the Republic of Poland or the documents enabling an alien to obtaining those means shall not refer to an alien, who arrived on the territory of the Republic of Poland for the purpose of family reunification to a person who had been granted the refugee status.

## **Art. 87**

The minister competent with respect to internal affairs shall specify, by means of an ordinance, the procedure of carrying out the control of the legality of the aliens' residence on the territory of the Republic of Poland taking into account the circumstances in which the control shall be carried out, the types of documents controlled as well as the procedure and scope of documenting the activities related to the control.

## **Chapter 8**

### **Expulsion of aliens and obligation to leave the territory of the Republic of Poland**

## **Art. 88**

1. An alien shall be render a decision on expulsion from the territory of the Republic of Poland, if:
  - 1) he / she resides on that territory without the required visa, the residence permit for a fixed period, the permit to settle or the long-term resident's EC resident permit;
  - 2) he / she carried out work contrary to the Act of 20 April 2004 on the promotion of employment and institution of labour market, or he / she took up another economic activity contrary to the laws in force in the Republic of Poland;
  - 3) he / she does not possess the financial means necessary to cover the costs of residence on the territory of the Republic of Poland and he / she cannot indicate any credible sources of obtaining those means;
  - 4) his/her data is recorded in the register of aliens whose residence on the territory of the Republic of Poland is undesirable.
  - 5) the continuation of his/her residence would constitute a threat to the state security, defence and the public policy or if it would be in breach of the interests of the Republic of Poland.
  - 6) he / she has crossed or has attempted to cross the border contrary to the laws ;
  - 7) he / she did not leave voluntarily the territory of the Republic of Poland within the time limit specified in the decision:
    - a) on obligation to leave the territory of the Republic of Poland,
    - b) on refusal of granting of the residence permit for a fixed period;

- c) on withdrawal of the residence permit for a fixed period.
  - 8) an alien does not comply with fiscal obligations to the State Treasury
  - 9) he / she has served a sentence of Polish of imprisonment for committing an intentional crime or tax offence;
  - 10) he / she has been sentenced in the Republic of Poland by the legally valid and enforceable sentence of imprisonment and there are grounds to conduct the extradition procedure abroad in order to execute the punishment judged in relation to this alien.
2. A decision on expulsion shall not be rendered to an alien who possesses the permit to settle or the long-term resident's EC resident permit.

#### **Art. 89**

1. The decision on expulsion of an alien shall not be rendered, and the decision rendered shall not be executed if:
- 1) there are circumstances pointing to granting the permit for tolerated stay on the basis of art. 97 of the Act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland;
  - 2) the alien is a spouse of the Polish citizen or of the an alien possessing the permit to settle or the long-term resident's EC resident permit and his / her does not constitute a threat to state security and defence or public security and policy, unless the marriage has been concluded in order to avoid expulsion;
  - 3) the proceedings for granting the refugee status is being carried out in relation to the alien.
2. If a decision on granting to alien the refugee status becomes final, the voivod shall state the expiry of a decision on an alien's expulsion, rendered before the proceedings for granting the refugee status has been initiated.
3. Art. 55 shall apply mutatis mutandis to the proceedings on expulsion of an alien, referred to in sec. 1 point 2.

#### **Art. 90**

1. The decision on expulsion:

- 1) shall specify the time limit, not exceeding 14 days, in which an alien must leave the territory of the Republic of Poland.
  - 2) may specify the route of arrival to the border and the place of crossing the border;
  - 3) may oblige an alien to stay in the indicated place until the execution of the decision and may oblige his / her to report to the authority indicated in the decision at specified intervals of time.
2. The decision on expulsion may be made immediately enforceable, if it is justified by the reasons referred to in. art. 88 sec. 1 p. 5.
  3. The decision on expulsion shall cause, by virtue of law, cancellation of a visa, withdrawal of the residence permit for a fixed period and work permit

#### **Art. 90a**

Decisions on expulsion may be transmitted by means of any devices that make possible reading and record of information in writing on the paper carrier, as well as by means of telecommunication networks and may be delivered to an alien in the form resulting from such a transmission.

#### **Art. 91**

An alien must not leave the place of residence specified in the decision on expulsion without the authorisation of an authority which issued that decision.

#### **Art. 92**

1. The decision on expulsion shall be issued, ex officio or at the request of the Minister of National Defence, the Chief of the Internal Security Agency, the Chief of the Intelligence Agency, the Commandant in Chief of the Border Guard, the Commandant in Chief of the Police, the commanding officer of the Boarder Guard Division, the commanding officer of the Voivodship Police headquarter, the commanding Officer of the Border Guard checkpoint or Customs Service agency, by the voivod competent with respect to the

alien's place of residence or by the voivod competent with respect to the place of disclosure of the event which constitutes basis to make request for expulsion of the alien.

2. The fact of rendering the decision on expulsion shall be recorded in the travel document of an alien and notified by a voivod to the commanding officer of the Voivodship Police headquarter as well as to the authority that has requested for the issue of the decision on expulsion.

### **Art. 93**

1. An alien who has been rendered the decision on expulsion shall be taken the fingerprints, unless they were taken according to provisions of art. 14 sec.2, art. 98 sec. 4 or art. 101 sec. 3, and a photograph, if it was not taken earlier during the criminal proceedings according to art. 74 § 2 point 1 of the Code of Criminal Procedure or during the proceedings on granting the refugee status according to the art. 24 sec. 1 point 3 of the Act of 13 June 2003 on granting protection to alien within the territory of the Republic of Poland. Those activities shall be carried out by the authority that has requested for the issue of the decision on expulsion or by the commanding officer of the Voivodship Police headquarter competent with respect to the seat of the voivod who has issued that decision ex officio or at the request of the Minister of National Defence or the Customs Service agency.
2. The provisions of art.14 sec.2 shall apply mutatis mutandis to taking fingerprints from the alien who had been rendered the decision on expulsion.

### **Art. 94**

4. The decision on expulsion of a minor alien to his / her country of origin or to another country shall be executed only when that care will be provided to him/her in such a country by parents, other adults or by competent care institutions in accordance with the standards provided for in the Convention on children's rights, signed at New York, 20 November 1989 (J. L. 1991, No 12, it. 526 and J. L. 2000, No 2, item 11).
5. A minor alien may be expelled only if he / she shall be under the care of the legal representative. That provision may not apply if the manner of executing the decision on expulsion provides that the minor shall be handed over to the legal representative or to the

representative of the competent agencies of the country to which the expulsion is carried out.

#### **Art. 95**

1. An alien who was issued the decision on expulsion may be escorted to the border or to the border of the country to which the alien has to be expelled or to the airport or sea port of that country if:
  - 1) he / she stays in the guarded centre or in the centre for the purpose of expulsion;
  - 2) he/she has not left the territory of the Republic of Poland in the time limit specified in the decision on expulsion or in a decision including the order to leave the territory of the Republic of Poland;
  - 3) it is justified by the state security and defence as well as by the public security and policy or the interest of the Republic of Poland;
  - 4) the decision on expulsion of an alien has been rendered with regard to the circumstance referred to in art. 88 sec. 1 point 7.
2. The obligation to escort an alien to the border or an airport or a sea port of the country to which he/she has to be expelled shall be carried out by the commanding officer of the Voivodship Police headquarter, competent with respect to the place of the alien's stay.
3. The obligation to escort an alien from the border to the border of the country to which he/she has to be expelled or to the airport or the sea port of that state shall be carried out by the Commandant in Chief of the Border Guard or the commanding Officer of the Border Guard division competent with respect to the place of crossing the border by an alien.
4. The commanding officer of the Border Guard checkpoint shall note, in the register on expulsion from the territory of the Republic of Poland, the date an alien left this territory or shall notify this fact immediately the voivod, who rendered the decision on expulsion.

#### **Art. 96**

1. The costs related to expulsion shall be born by an alien.
2. The costs related to expulsion of an alien shall be born by:
  - 1) the host, if the reason of expulsion is that the host did not fulfil the obligation referred to in art. 16 sec. 2 p. 4.

- 2) the employer, if the reason of expulsion is that an alien has carried out work contrary to the Act of 20 April 2004 on promotion of employment and institutions of labour market.
3. The costs related to expulsion shall in particular include:
  - 1) costs of transporting an alien to the state border of the Republic of Poland or to the border, airport or sea port of the state to which an alien is going or is being escorted to,
  - 2) costs related to escorting of an alien,
  - 3) administrative costs;
  - 4) the cost of assistance provided by the member State of the European Union with regard to the transit by air carried out via its territory.
  - 5) costs of stay in the guarded centre or in the arrest for the purpose of expulsion.
4. The amount of the costs related to expulsion as well as the subject obliged to bear those costs shall be determined in a decision rendered by a voivod. If that obligation shall burden the alien expelled from the territory of the Republic of Poland, the amount of the costs may be determined in the decision on expulsion.
5. The costs related to expulsion are subject to administrative enforcement. The authority rendering the decision on expulsion shall be entitled to issue the enforceable title. Initiation of the enforcement proceedings does not require the delivery of the admonition.
6. If the financial means of an alien has been located in the deposit of the organisational unit of the Police or of the Border Guard, the costs related to expulsion shall be enforced by that unit.
7. The income deriving from the costs related to expulsion shall constitute the revenue of the state budget.
8. The costs related to expulsion, which may not be enforced, shall be covered by the State Treasury.

#### **Art. 97**

1. In cases referred to in art. 88 sec. 1 p. 1-3, an alien may be obliged to leave the territory of the Republic of Poland within the time limit of 7 days, if the circumstances of the case indicate that he / she shall carry out that obligation voluntarily.
2. The decision on obligation an alien to leave the territory of the Republic of Poland shall be given an order of immediate enforceability.

3. The decision referred to in sec. 2 shall cause, by virtue of law, cancellation of a visa, withdrawal of the residence permit for a fixed period and work permit.

#### **Art. 98**

1. The decision on obligation an alien to leave the territory of the Republic of Poland shall be rendered by the commanding officer of the voivodovship Police headquarter, the commanding officer of the district (poviat) or municipality , the commanding officer of the Border Guard Division or the commanding officer of the Border Guard checkpoint.
2. The decision referred to in sec. 1 may be appealed against to the voivod competent with respect to the seat of the authority issuing the decision.
3. The fact of issue of the decision of obligation an alien to leave the territory of the Republic of Poland shall be recorded in his / her travel document by the authority referred to in sec. 1. That authority shall immediately notify the fact of issue that decision to the territorially competent voivod.
4. The authority referred to in sec. 1 shall take the fingerprints from an alien who was rendered the decision on obligation to leave the territory of the Republic of Poland, unless they were taken according to the art. 14 sec. 2, art. 93 sec. 1 or art. 101 sec. 3.
5. Art. 14 sec. 3 shall apply to taking the fingerprints from an alien who was rendered the decision on obligation to leave the territory of the Republic of Poland.

#### **Art. 99**

If an alien who had been rendered the decision on obligation to leave the territory of the Republic of Poland has been rendered the decision on expulsion:

- 1) the authority which has issued the decision on expulsion shall state the expiry of the decision on obligation to leave the territory of the Republic of Poland at the date of the issue of the decision on expulsion;
- 2) the appeal proceedings against the decision on obligation to leave the territory of the Republic of Poland shall be discontinued.

#### **Art. 100**

The minister competent with respect to internal affairs shall specify, by means of an ordinance:

- 1) procedures of the agencies during the proceedings on expulsion, and in particular: requirements which should be met by a request for the rendering of the decision on expulsion as well as activities which should be undertaken in the case when the alien who is subject to expulsion does not possess travel document, taking into account the need of effectiveness and correctness of the proceedings;
- 2) the manner of recording in a travel documents the decision on obligation to leave the territory of the Republic of Poland and the decisions on expulsion. The manner of recording should make readable, during the control of alien's travel document, the date of rendering above-mentioned decisions.

## **Chapter 8a**

### **Transit of an alien by air**

#### **art. 100a**

1. If due to justified practical reasons it is not possible to use a direct flight from the territory of the Republic of Poland in order to transport an alien to the airport of the country to which he/she is to be expelled, the Commandant in Chief of the Border Guard Headquarters shall make a request to the central authority of the other European Union Member State for the authorisation to transit an alien through the area of the airport of this State, hereinafter referred to as "transit by air".
2. If necessary, a request for the transit by air authorisation relates also to all persons, who are responsible for an alien during transit, including persons taking care of him / her and interpreters, hereinafter referred to as "an escort".
3. The Commandant in Chief of the Border Guard Headquarters shall deliver a request for the transit by air to the central authority of the European Union Member State no later than 48 hours prior to beginning of transit.
4. The time limit referred to in art. 3 shall not apply to particularly urgent cases.
5. Transit by air may be carried out after obtaining the authorisation from the central authority of the other European Union Member State, unless bilateral or multilateral agreements or arrangements state otherwise.

6. The minister competent with respect to internal affairs shall specify, by means of an ordinance, the format of request for the transit by air authorisation, taking into account provisions of the Council Directive 2003/110/EC of 25 November 2003 on assistance in cases of transit for the purposes of removal by air (OJ L 321 of 06.12.2003).

**Art. 100b**

1. The Commandant in Chief of the Border Guard Headquarters shall consult with the central authority of the other European Union Member State the extent of assistance in transit by air as well as methods of its operation, ensuring that transit will be completed within the time limit not exceeding 24 hours.
2. If transit by air may not be completed within 24 hours, the Commandant in Chief of the Border Guard Headquarters may agree with the central authority of the other European Union Member State on the extension of transit, for the period however not exceeding 48 hours.

**Art. 100c**

An alien referred to in art. 100a sec. 1 shall be allowed immediately to re-enter the territory of the Republic of Poland, if:

- 1) the central authority of the European Union Member State has withdrawn the transit by air authorisation;
- 2) during transit by air he / she entered without authorisation the territory of the European Union Member State on the area of which the airport of transit is located.
- 3) his / her expulsion to the country of destination or to another transit country or his / her boarding at the aircraft occurred to be ineffective.
- 4) due to other reasons execution of transit is impossible.

**Art. 100d**

1. The costs related to re-entry of an alien the territory of the Republic of Poland shall be born by the State Treasury.
2. The costs of assistance in transit by air provided by the other European Union Member State shall be returned by the State Treasury.

3. The costs referred to in sec. 1 and 2 shall be financed from the state budget, from the part of which the minister competent with respect to internal affairs is the disposer, from the means being at disposal of the Commandant in Chief of the Border Guard Headquarters.

#### **Art. 100e**

If it is not possible to use a direct flight from the territory of the other European Union Member State in order to transport an alien to the airport of the country to which he/she is to be expelled from the territory of this European Union Member State, the Commandant in Chief of the Border Guard Headquarters, upon a request of the central authority of the other European Union Member State shall grant authorisation to transit an alien through the area of Polish airport.

#### **Art. 100f**

1. The Commandant in Chief of the Border Guard Headquarters shall notify the central authority of the other European Union Member State on granting or refusing to grant the transit by air authorisation within the time limit of 48 hours from obtaining the request.
2. In justified cases the time limit referred to in sec. 1 may be extended for consecutive 48 hours.

#### **Art. 100g**

1. The Commandant in Chief of the Border Guards Headquarters may refuse the transit by air authorisation if:
  - 1) an alien is accused in the Republic of Poland of committing a crime or is on a wanted list in order to execute a sentence.
  - 2) transit through the territory of the other countries or admission of an alien to the country to which he / she is to be expelled are unenforceable ;
  - 3) execution of an expulsion decision requires the change of the airport within the territory of the Republic of Poland;
  - 4) an alien constitutes a threat to public policy and security, public health or interest of the Republic of Poland;
  - 5) it is impossible to provide with assistance in transit execution.

2. The Commandant in Chief of the Border Guards Headquarters may withdraw the transit by air authorisation, if the circumstances referred to in sec. 1 have arisen after the authorisation was granted.
3. The Commandant in Chief of the Border Guard Headquarters shall notify immediately the central authority of the other European Union Member State on:
  - 1) refusal to grant or withdrawal of the transit by air authorisation;
  - 2) next date, the execution of the transit by air is possible – if the transit by air authorisation was refused or withdrawn on the basis of sec. 1 point 5.

#### **Art. 100h**

1. The Commandant in Chief of the Border Guard Headquarters, upon a request of the central authority of the other European Union Member State, may provide the assistance in transit by air through the area of Polish airport, in particular on:
  - 1) seizing an alien at the aircraft and to convoy him in the area of the airport;
  - 2) providing an alien and his / her escort with:
    - a) necessary medical care,
    - b) sustenance;
  - 3) receiving, storing and forwarding travel documents of an alien;
  - 4) notifying the central authority of the other European Union Member State on place and time of an alien's departure, in cases of non escorted transit;
  - 5) providing the central authority of the other European Union Member State with essential information related to carrying out of the transit;
  - 6) providing an alien with accommodation during carrying out of the transit;
  - 7) countering of undertaken by an alien attempts to make the transit impossible.
2. After the completion of transit by air through the area of Polish airport the Commandant in Chief of the Border Guard Headquarters shall apply to the central authority of the other European Union Member State for covering the costs of the assistance granted.

#### **Art. 100i**

1. When carrying out the transit by air through the area of Polish airport, the officers of an escort from the other European Union Member State:

- 1) shall be entitled to apply coercive measures against an alien, using physical force in the form of incapacitating holds and similar techniques of defence or attack in order to repulsed active aggression or using handcuffs in order to prevent active aggression;
  - 2) may cooperate with the officers of the Border Guard, using coercive measures appropriate to the needs of existing situation and necessary to ensure obedience to the orders issued, according to the conditions of use coercive measures by the officers of the Border Guard, specified in the Act of 12 October 1990 on the Border Guard, in case of an immediate and serious risk that an alien is going to undertake an escape, cause injury to himself / herself or to a third party, or damage to property.
2. When carrying out the transit by air through the area of Polish airport the officers of an escort from the other European Union Member State shall be entitled to carry out the transit by air, shall wear civilian cloths and shall not be armed.

#### **Art. 100j**

The provisions of the Code of Administrative Procedures as well as the provisions on procedure before administrative courts shall not apply to the matters regulated in this chapter.

### **Chapter 9**

#### **The proceedings in case of detention of an alien, placing an alien in the guarded centre or in the arrest for the purpose of expulsion**

#### **Art. 101**

1. An alien in relation to whom any circumstances that justify rendering of the decision on expulsion apply or an alien who evades carrying out obligations specified in the decision on expulsion, may be detained for a period not exceeding 48 hours.
2. The detention of an alien shall be carried out by the Border Guard or the Police.
3. The authority which has detained an alien should take his / her fingerprints without delay and, if required by the circumstances, it also should:

- 1) make a request to the court for placing an alien into the guarded centre or in the arrest for the purpose of expulsion;
- 2) make a request to the voivod for rendering of the decision on withdrawal of the permit to settle or the long-term resident's EC resident permit;
- 3) make a request to the voivod for rendering of the decision on expulsion;
- 4) execute the decision on expulsion, in particular escort an alien to the border of the Republic of Poland or to the border, an airport or a sea port of the country to which he/she is being expelled.

3a. An alien shall be released from detention:

- 1) if, within the time limit of 48 hours from detention, he / she has not been handed over to the court together with the request for placing into the guarded centre or in the arrest for the purpose of expulsion;
- 2) if, within the time limit of 24 hours from being handed over to the court, he / she has not been delivered a ruling on placing into the guarded centre or in the arrest for the purpose of expulsion;
- 3) on the order of the court;
- 4) if the reason for detention ceased to exist.

3b. The Code of Criminal Procedure shall apply to detention of an alien, in the scope not regulated by this Act.

4. If there is obstacle which make escort or admission of an alien to the guarded centre or to the arrest for the purpose of expulsion impossible, he / she may be placed in the Police or the Border Guard separate facility for persons detained, until the time of deleting of this obstacle.
5. The provisions on stay in the guarded centre or in the arrest for the purpose on expulsion shall apply mutatis mutandis to an alien placed in the facility referred to in sec. 4.
6. The provision of art. 14 sec. 3 shall apply mutatis mutandis to the procedure of taking the fingerprints of an alien detained on the basis of sec. 1.
7. The minister competent with respect to internal affairs shall specify, by means of an ordinance and with respect to the reasons of taking the fingerprints, the pattern of the dactyloscopic card, used for taking of the fingerprints from the alien on the basis of sec. 3, art. 14 sec. 2, art. 93 sec. 1 or art. 98 sec. 4.

## **Art. 101 a**

1. The authority which stopped a minor alien staying on the territory of the Republic of Poland without care may make a request to the court competent with respect to the place of stopping a minor for placing this minor in the in the custodian–educational centre.
2. The costs related to placing and stay of a minor alien in the custodian-educational centre shall be financed from the state budget, from the part of which the minister competent with respect to internal affairs is the disposer, from the means being at disposal of the Commandant in Chief of the Border Guard Headquarters or of the Commandant in Chief of the Police.

#### **Art. 102**

1. An alien shall be placed in the guarded centre, if:
  - 1) it is necessary to ensure the effectiveness of the proceedings on expulsion or on withdrawal of the permit to settle or of the long-term resident's EC resident permit;
  - 2) there is a well-founded fear that an alien will attempt to evade the execution of the decision on expulsion or on withdrawal of the permit to settle or of the long-term resident's EC resident permit.
  - 3) he / she crossed or has attempted to cross the border contrary to the laws, if he / she was not been escorted to the border immediately.
2. An alien shall be placed in the arrest for the purpose on expulsion, if any of the circumstances referred to in sec. 1 have arisen and there is a fear that an alien will not observe the rules in force in the guarded centre.

#### **Art. 103**

The ruling on placing an alien in the guarded centre or in arrest for the purpose of expulsion shall not be rendered if it may cause a serious threat to his/her life or health .

#### **Art. 104**

1. An alien shall be placed in the guarded centre or in the arrest for the purpose of expulsion on the basis of virtue of the court ruling.

2. The ruling referred to in sec. 1 shall be rendered at the request of the voivod, the agency of the Border Guard or the Police by the district court competent with respect to the seat of the authority, which has made the request.
3. The request for placing an alien in the guarded centre or in arrest for the purpose of expulsion should contain:
  - 1) name (names), family name, sex and parents' names;
  - 2) date and place and country of birth;
  - 3) citizenship;
  - 4) recent place of residence;
  - 5) legal basis of the request;
  - 6) indication of the guarded centre or the arrest for the purpose of expulsion, in which an alien should be placed;
  - 7) indication of the period for which an alien should be placed in the guarded centre or in the arrest for the purpose of expulsion;
  - 8) justification.
4. The proceedings for placing an alien in the guarded centre or in the arrest for the purpose of expulsion shall be carried out on the basis of the provisions of the Code of Criminal Procedure, with reservation that the function of the public prosecutor may be exercised by the voivod representative or by the officer of the Border Guard or the Police.
5. The district court competent with respect to the location of the guarded centre or the arrest for the purpose of expulsion, in which the alien has been placed shall supervise the execution of the ruling on placing an alien in the guarded centre or in the arrest for the purpose of expulsion.

#### **Art. 105**

1. While rendering the ruling on placing an alien in the guarded centre or in the arrest for the purpose of expulsion, the court shall undertake the necessary measures to protect an alien's property. The court shall also notify of the ruling rendered:
  - 1) the appropriate diplomatic mission or consular office - upon the consent of the alien concerned;
  - 2) the guardianship court, if there is a need to provide care for his/her children, being under his/her care;

- 3) a social assistance agency, if there arises the need to take care of an infirm or ill person of whom the alien has taken care,
  - 4) the person indicated by an alien.
2. An alien shall be informed by the court, in a language he/she understands, of activities undertaken, orders rendered and the rights he/she is granted during the procedure before the court.

#### **Art. 106**

1. While rendering the ruling on placing an alien in the guarded centre or in the arrest for the purpose of expulsion, the court shall specify the period of detention or arrest not exceeding 90 days.
2. The period of stay in the guarded centre or in the arrest for the purpose of expulsion may be prolonged for a specified period necessary to execute the decision on expulsion, if that decision was not executed due to the alien's fault. The period of stay in the guarded centre or in the arrest for the purpose of expulsion may not exceed one year.
3. The district court competent with respect to the location of the guarded centre or the arrest for the purpose of expulsion, where the alien has been placed, shall render the ruling on prolongation of the period of an alien's stay in the guarded centre or in the arrest for the purpose of expulsion. That ruling shall be rendered at the request of the authority obliged to escort the alien to the border of the Republic of Poland, the border or an airport or a sea port of the country to which he/she has to be expelled.
4. The ruling referred to in sec. 3 may be complaint against to the competent regional court within the time limit of 7 days from the date of delivery of that ruling. The court shall examine the complaint without delay.

#### **Art. 107**

1. The ruling on release an alien from the guarded centre or the arrest for the purpose of expulsion shall be rendered, if:
  - 1) the reasons justifying application of those measures ceased to exist;
  - 2) any of the circumstances referred to in art. 103 have arisen;
  - 3) application of those measures is not possible because of the circumstances other than referred to in art. 103

- 4) the decision on expulsion of the alien from the territory of the Republic of Poland has been reversed or invalidated;
  - 5) an alien has been granted the refugee status or asylum;
  - 6) an alien has been granted the permit for tolerated stay;
  - 7) an alien has been preliminary detained or if any other legal measure resulting in deprivation of liberty has been imposed on him/her
2. The ruling on release in case referred to in sec.1 p.1-3 and 7 shall be rendered upon the request of the alien or the authority supervising the guarded centre or the arrest for the purpose of expulsion, by the district court competent with respect to the seat of this authority.
  3. In cases referred to in sec.1 p. 4-6, the ruling on release shall be rendered by the authority, which has rendered the final decision.
  4. An alien placed in the guarded centre or in the arrest for the purpose of expulsion shall be released, if :
    - 1) the period specified in the ruling referred to in art. 106 sec. 1 and 2 has expired;
    - 2) the ruling on release the alien from the guarded centre or the arrest for the purpose of expulsion has been rendered;
    - 3) the decision on expulsion has been executed.
  5. The authority supervising the guarded centre or the arrest for the purpose for expulsion shall notify immediately the court which rendered the ruling on placing an alien in the guarded centre or in the arrest for the purpose of expulsion about the fact of release the alien from the guarded centre or the arrest for the purpose for expulsion.

#### **Art. 108**

1. An alien undoubtedly wrongfully detained or placed in the guarded centre or in the arrest for the purpose of expulsion shall be entitled to compensation, from the State Treasury, for damage he/she has borne and to satisfaction for the injury harms.
2. The proceedings referred to in sec.1 shall be carried out pursuant to the provisions of the Code of Criminal Procedure related to the compensation for wrongful conviction, preliminary arrest, or detention.

#### **Art. 109**

1. The guarded centres for aliens shall be financed from the part of state budget being at disposal of the minister competent with respect to internal affairs.
2. The minister competent with respect to internal affairs shall establish and close, by means of an ordinance, the guarded centres for aliens, taking into account the existing needs.  
The minister shall also indicate the authority of Police or Border Guard, which shall supervise those centres.
3. The minister competent with respect to internal affairs shall specify by means of an regulation, the facilities in which aliens arrested for the purpose for expulsion may be placed, in particular taking into account the need to use them rationally.

## **Chapter 10**

### **The stay of aliens in the guarded centre or in the arrest for the purpose of expulsion**

#### **Art. 110**

Residence on the territory of the Republic of Poland of an alien detained, placed in the guarded centre or in the arrest for the purpose of expulsion in relation to whom the probation measure in the form of ban to leave the Republic of Poland has been applied or of an alien deprived of liberty on the basis of orders given pursuant to the laws shall be considered as legal.

#### **Art. 111**

1. The alien shall be admitted to the guarded centre or the arrest for the purpose of expulsion on the basis of ruling of the court on placing in the guarded centre or in the arrest for the purpose of expulsion.
2. While admitting to the guarded centre or to the arrest for the purpose of expulsion an alien shall be obliged to provide his / her personal data, information about the place of registration or residence in the country of origin as well as information about his / her state of health.
3. An alien shall be obliged to deposit the following items at the guarded centre or at the arrest for the purpose of expulsion:
  - 1) identity documents, money and valuable objects;

- 2) technical devices used for recording and reading of information;
  - 3) audiovisual and computer equipment and other objects, if the head of the guarded centre or the agency of the Police or of the Border Guard does not allow to keep those objects in the room for aliens or in the accommodation cell;
  - 4) objects which may constitute a threat to the order or safety in the centre or in the arrest.
4. While admitting to the guarded centre or to the arrest for the purpose of expulsion an alien shall be obliged to deposit also those objects which dimension or amount are contrary to the rules of stay in the arrest.

#### **Art. 112**

An alien admitting to the guarded centre or to the arrest for the purpose of expulsion shall be informed in a language he/she understands about rights and obligations vested in him/her as well as about the rules of stay in the guarded centre or in the arrest for the purpose of expulsion.

#### **Art. 113**

1. An alien admitted to the guarded centre or to the arrest for the purpose of expulsion shall be subjected without delay to the medical examination and - if necessary - to sanitary treatment.
2. The doctor carrying out the examination referred to in sec. 1 and the medical care over aliens placed in the guarded centre or in the arrest for the purpose of expulsion shall be obliged to provide a medical documentation pursuant to the appropriate regulations.
3. The costs of examinations referred to in sec. 1 shall be financed from the part of state budget being at disposal of the minister competent with respect to internal affairs.

#### **Art. 114**

1. An alien admitted to the guarded centre shall be placed in a room for aliens. An alien admitted to the arrest for the purpose of expulsion shall be placed in the accommodation cell.
2. The area of a room for an alien and of the accommodation cell shall not be less than:

- 1) 3 sq m per one man;
  - 2) 4 sq m per one woman or a minor.
3. The room for an alien and the accommodation cell shall be equipped with separate place to sleep, appropriate conditions of hygiene, sufficient supply of air as well as temperature appropriate to the season, pursuant to the standards specified for the accommodation facilities as well as be equipped with lighting appropriate for reading.

#### **Art. 115**

1. Aliens of different sex shall be placed separately.
2. If it is possible, an alien placed in the guarded centre together with a minor remaining under his / her care, shall be provided with the same room for aliens
3. An unaccompanied minor staying in the guarded centre shall be placed in the separated part of the centre in the manner that makes his / her contact to adults placed in the centre not possible.
4. If it is possible, aliens who - according to their declaration - are the closest members of the family shall be placed at their request in the same room for aliens.

#### **Art. 116**

1. An alien placed in the guarded centre or in the arrest for the purpose of expulsion shall use his / her own clothing, underwear and footwear.
2. If the objects referred to in sec. 1 shall not be suitable for use or if they are not allow to use for the hygiene purposes, an alien may obtain, after payment, clothing, underwear and footwear appropriate for the season. If an alien is not able to pay for those objects - he / she should be provided with them without payment.
3. An alien shall obtain, without payment, toilet articles.

#### **Art. 117**

1. An alien placed in the guarded centre or in the arrest for the purpose of expulsion has the right to:
  - 1) contact the state authorities of the Republic of Poland and the diplomatic mission or the consular post of the foreign country in personal and official cases;

- 2) contact the non-governmental or international organisations dealing with granting assistance to aliens, especially legal aid;
- 3) dispose of the objects deposited, referred to in art. 111 sec. 3 p. 2 and 3 and sec. 5, unless those objects have been safeguarded according to the procedure set forth in the regulations on the administrative enforcement;
- 4) benefit a medical treatment and - if it is justified by his / her state of health - be placed into the medical care centre;
- 5) no disturbed sleep between 10 p.m. and 6 a.m., at holy days to 7 a.m. and at the other time unless it is contrary to the rules of stay in the centre or the arrest;
- 6) use sanitary devices as well as toilet articles;
- 7) possess the objects of religious cult, exercising religious practices, enjoying religious services as well as to listen to or to watch in the accommodation facilities the divine services transmitted by mass media, unless it is contrary to the rules of stay in the centre or the arrest;
- 8) use the press, to buy the press, at his / her expence, and to possess it in the room for aliens or in the accommodation cell;
- 9) buy, at his / her expence, food, toilet articles and to keep those objects in the room for aliens or in the accommodation cell; those objects may be kept in the accommodation cell only if they or their packing shall not constitute a threat to the order and safety in the arrest;
- 10) buy, at his / her expence, stationery, books and club games as well as to possess those items in the room for aliens or the accommodation cell;
- 11) receive packs containing clothing, footwear and other objects of personal use as well as containing dressing and toilet articles, if those packs have been checked at his / her presence. The packs containing medicines may be handed over to an alien only at doctor's consent.
- 12) correspond and to use the means of communication on his / her own cost; in emergency events an alien may be allowed to use the means of communication and to send correspondence on the cost of the centre or of the arrest;
- 13) submit petitions, complaints and requests to:
  - a) the head of the Police or the Border Guard agency which supervises the centre  
or
  - b) the officer responsible for functioning of the arrest or to the Police or the Border Guard agency supervising the arrest;

- 14) meetings with the close persons in the specified facilities, at the consent of the Police or the Border Guard agency supervising the centre or the arrest as well as at the consent of the person authorised by that authority.
2. An alien may enjoy the rights other than specified in sec. 1 at the consent of the Police or the Border Guard agency supervising the guarded centre or the arrest for the purpose of expulsion as well as at the consent of the person authorised by that authority.
3. Apart from the rights referred to in sec. 1 an alien placed in the guarded centre has also the right to:
  - 1) buy, at his / her expense, the tobacco articles and to keep them in the room for aliens;
  - 2) move along the area of the centre, within the time and in place indicated by the head of the centre;
  - 3) use the library;
  - 4) use the recreation and sport equipment in the time and place indicated by the head of the centre;
4. Apart from the rights referred to in sec. 1, an alien staying in the arrest for the purpose of expulsion, has also the right to:
  - 1) everyday walking outside by an hour unless the doctor recommends otherwise;
  - 2) contact, at the consent of the officer being on duty in the arrest and in the time and place indicated, other aliens staying in the arrest;
  - 3) play the club games, except gambling, in the time and place indicated by the arrest's duty officer;
  - 4) buy, at his / her expense, tobacco articles and to smoke, in the place indicated, at the consent of the arrest's duty officer.
5. The head of the guarded centre or the officer responsible for functioning of the arrest for the purpose of expulsion or the agency of the Police or the Border Guard supervising the centre or the arrest may allow an alien to possess in the room for aliens or in the accommodation cell the audiovisual or computer equipment or other objects, including those which may improve the outlook of the facilities or ones which express the alien's cultural interests.

## **Art. 118**

An alien placed in the guarded centre or in the arrest for the purpose of expulsion shall be provided with medical treatment, medicines, sanitary articles and meals on the principles related to persons placed in the penitentiary or in the remand arrest pursuant to the provisions of the Executive Penal Code.

#### **Art. 119**

An alien placed in the guarded centre or staying in the arrest for the purpose of expulsion shall be obliged to:

- 1) observe the regulation on stay in the centre or in the arrest;
- 2) obey the orders of the centre's administration or of the arrest's duty officer;
- 3) keep the peace at night between 10 p.m. to 6 a.m. and - in the holydays - to 7 a.m.;
- 4) observe the rules of social coexistence;
- 5) take care of personal hygiene and of cleanness of the facilities;
- 6) use the equipment of the centre or the arrest in appropriate manner;
- 7) inform the centre's administration or the arrest's duty officer in the arrest about noticed symptoms of illness; the arrest's duty officer should be also informed immediately about cases of self-mutilation or another serious event.

#### **Art. 120**

An alien placed in the guarded centre shall be forbidden to:

- 1) leave the area of the centre without authorisation or to stay in places in which the admittance has been banned by the centre's administration;
- 2) disturb peace and order in the centre;
- 3) possess - except of deposited - technical devices used for recording and reading the information as well as the objects, which may constitute a threat for order or safety in the centre,
- 4) possess, in rooms for aliens, objects, which dimension or amount are contrary to the rules of stay in the centre.
- 5) consume alcohol and to take narcotic and psychotropic substances;
- 6) smoke the tobacco articles out of the places indicated;
- 7) deny the intake of meals provided by the centre's administration, or to cause injuries of his / her body or health disorder as well as to persuade or to assist in

- committing of those acts in order to force a certain decision or activity;
- 8) contact persons not staying in the centre and the aliens placed in the other rooms for aliens if it could be in breach of order of the centre;
  - 9) change without authorisation the rooms for aliens or place indicated for sleeping;
  - 10) to organise gambling and to participate in it.

#### **Art. 121**

1. A woman may stay in the arrest for the purpose of expulsion until the end of seventh month of pregnancy.
2. The agency of the Police or of the Border Guard, supervising the arrest for the purpose of expulsion, adequately prior to the end of sixth month of pregnancy of the woman placed in the arrest for the purpose of expulsion, shall make to the court the request for placing her in the guarded centre.

#### **Art. 122**

1. An alien released from the guarded centre or from the arrest for the purpose of expulsion shall be given back money and objects deposited.
2. If the decision on expulsion related to the alien placed in the guarded centre or in the arrest for the purpose of expulsion is to be executed, the identity documents and objects referred to in art. 111 sec. 3 p. 2 and 4 shall be taken from the deposit by the commandant of the escort. Those documents and objects shall be given back to the alien in the Border Guard checkpoint through which an alien is to be expelled from the territory of the Republic of Poland or at the border, an airport or a sea port of the country to which he/she is being expelled.
3. At the request of the alien released from the guarded centre or from the arrest for the purpose of expulsion, the objects deposited by him / her may be given back to the person entitled by the alien in writing, or to the institution or organisation indicated by him / her. The costs of giving back the objects deposited shall be borne by the alien.

#### **Art. 123**

1. The minister competent with respect to internal affairs shall specify, by means of an ordinance, the conditions which the guarded centres and the arrests for the purpose of expulsion should meet as well as rules and regulations governing the stay in the guarded centre and in the arrest for the purpose of expulsion, in particular taking into account the arrangement of the rooms for aliens and accommodation cells as well as the internal order of the centre and of the arrest.
2. The minister competent with respect to internal affairs may specify, by means of an ordinance, the manners of safeguarding of the guarded centres and the arrests for the purpose of expulsion, taking into account the organisational structure of the Police and of the Border Guard, duties of the Police and the Border Guard officers employed in the guarded centres or in the arrests for the purpose of expulsion as well as the conditions of entry of the persons other than the officers of the Police or the Border Guard or the persons employed in the centres or in the arrests to the area of the centres and the arrests.

## **Chapter 11**

### **Registers, evidence and index of aliens**

#### **Art. 124**

The following registers on entry into, residence on and departure of aliens from the territory of the Republic of Poland shall be run in the form of the informatic system:

- 1) the registers on:
  - a) visas,
  - b) residence permits for a fixed period,
  - c) permits to settle,
  - d) issue of identity Polish documents for an alien,
  - e) issue of provisional Polish travel documents for an alien,
  - f) obligation to leave the territory of the Republic of Poland,
  - g) expulsion from the territory of the Republic of Poland,
  - h) persons who have been granted the authorisation for entry and residence on the basis of art. 144 sec. 1,
  - i) persons stopped in the border zone and escorted to the border,
  - j) long-term resident's EC resident permits;

- k) aliens who have been taken the fingerprints on the basis of art. 14 sec. 2, art. 93 sec. 1, art. 98 sec. 4 and art. 101 sec. 3;
- 2) the register on the fingerprints taken from aliens on the basis of art. 14 sec. 2, art. 93 sec. 1, art. 98 sec. 4 and art. 101 sec. 3;
- 3) the register of invitations;
- 4) the index of aliens whose residence on the territory of the Republic of Poland is undesirable, hereinafter referred to as “the index”.

## **Art. 125**

### 1. The registers referred to in:

- 1) art. 124 p. 1 l. a - shall be run - in the scope of functions - by the commanding officer of the Border Guard checkpoint, a voivod, a consul and the President of the Office for Repatriation and Aliens;
- 2) art. 124 p. 1 l. b-d, g, j - shall be run by a voivod;
- 3) art. 124 p. 1 l. e - shall be run - in the scope of functions - by a voivod, a consul, and the commanding officer of the Border Guard checkpoint;
- 4) art. 124 p. 1 l. f and k - shall be run - in the scope of functions - by the commanding officer of the voivodovship Police headquarter, the commanding officer of the Police district, the commanding officer of the Border Guard Division and the commanding officer of the Border Guard checkpoint;
- 5) art. 124 p. 1 l. h - shall be run by the President of the Office for Repatriation and Aliens;
- 6) art. 124 p. 1 l. i - shall be run by the commanding officer of the Border Guard division;
- 7) art. 124 p. 2 - shall be run by the Commandant in Chief of the Police.

2. The register referred to in art. 124 p. 3 shall be run by a voivod.

3. The index shall be run by the President of the Office for Repatriation and Aliens.

## **Art. 126**

### 1. The following data shall be stored in the registers:

- 1) referred to in art. 124 p. 1 l. a- c, j - information about applications, rulings rendered, administrative decisions and court judgements, as well as the data:

- a) referred to in art. 12 1. a, related to aliens participating in the proceedings on the issue and prolongation of a visa,
  - b) referred to in art. 12 1. b, related to aliens participating in the proceedings on granting or withdrawal of the residence permit for a fixed period as well as the information on the date of issue, number, series and the date of expiry of validity of the residence card,
  - c) referred to in art. 12 1. c, related to aliens participating in the proceedings on granting and withdrawal of the permit to settle, as well as the information on the date of issue, number, series and the date of expiry of validity of the residence card or of the Polish travel document for an alien,
  - d) referred to in art. 12 1. j, related to aliens participating in the proceedings on granting and withdrawal of the long-term resident's EC resident permit, as well as the information on the date of issue, number, series and the date of expiry of validity of the residence card or of the Polish travel document for an alien,
- 2) referred to in art. 124 p. 1 l. d and e - information on name (names), family name, date and place of birth and citizenship of an alien, information on the date of issue, number, series and the date of expiry of validity of the identity Polish document for an alien or the provisional Polish travel document for an alien as well as information on applications submitted for the issue or exchange of those documents and on decisions refusing their issue;
  - 3) referred to in art. 124 p. 1 l. f - data of aliens obliged to leave the territory of the Republic of Poland and information on decisions on obligation to leave the territory of the Republic of Poland;
  - 4) referred to in art. 124 p. 1 l. g - data of aliens expelled from the territory of the Republic of Poland and information on decisions on expulsion from the territory of the Republic of Poland as well as on the date an alien left the territory of the Republic of Poland;
  - 5) referred to in art. 124 p. 1 l. h - data of aliens who have been granted the authorisation for entry and stay on the basis of art. 144 sec. 1
  - 6) referred to in art. 124 p. 1 l. i - data of persons stopped in the border zone and escorted to the border,
  - 7) referred to in art. 124 p. 1 l. k – information of name (names) and family name, date and place of birth and the citizenship of an alien, who has been taken the fingerprints,

as well as the legal basis for taking the fingerprints and also the function, name and family name of a person who has taken the fingerprints.

2. The register of the fingerprints taken from an alien on the basis of art. 14 sec.2, art. 93 sec. 1, art. 98 sec. 4 and art. 101 sec. 3, shall contain the legal base and the date of taking of the fingerprints, as well as information on dactyloscopic card or of taking the fingerprints by means of the device used for taking of fingerprints electronically. The register shall also contain the following data of an alien:
  - 1) name (names) and family name;
  - 2) date and place of birth;
  - 3) citizenship.
3. The data of the host and the alien, referred to in art. 16 sec. 2 shall be stored in the register of invitations.

#### **Art. 127**

The authorities entitled to take the fingerprints of an alien shall be obliged to transmit to the Commandant in Chief of the Police the data referred to art. 126 sec. 2 as well as the fingerprints taken by means of dactyloscopic cards or with the device used for taking of fingerprints electronically.

#### **Art. 128**

1. In the index there shall be stored the data of an alien with regard to whom any of the following circumstances has arisen:
  - 1) there has been rendered the final decision on expulsion or the decision on withdrawal of the permit to settle on the basis of art. 68 sec. 1 p. 1 - 3; the decision on withdrawal of the long-term resident's EC resident permit on the basis of art. 69 sec. 1 p. 2 or the decision on refusal to grant the refugee status, including an order to leave the territory of the Republic of Poland, referred to in art. 16 sec. 1 p. 2 of the Act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland.
- 1a. The following data of an alien shall not be entered to the index:
  - 1) data on a spouse of the Polish citizen as well as data on a spouse of an alien possessing the permit to settle or the long-term resident's EC resident permit if this spouse resides on the territory of the Republic of Poland; however this

limitation shall not apply if this spouse constitutes a threat to the state defence and security or public security and policy.

- 2) data on alien possessing the permit to settle or the long-term resident's EC resident permit.
  - 2) there has been rendered the final decision on obligation to leave the territory of the Republic of Poland, the decision in which the time limit for leaving the territory of the Republic of Poland has been specified, the decision on refusal of granting or on withdrawal of the resident permit for a fixed period;
  - 3) an alien has been sentenced by a final sentence:
    - a) in the Republic of Poland for at least 3 years of imprisonment for committing an intentional crime or a tax offence.
    - b) abroad - for a crime which is regarded as a common crime also pursuant to the Polish law;
  - 4) an alien does not comply with fiscal obligations to the State Treasury
  - 5) entry and residence of an alien are undesirable for reasons of commitments stemming out from international treaties and agreements binding the Republic of Poland;
  - 6) entry or residence of the alien may constitute a threat to the state security and defence as well as to the public security and policy or it would be in breach of the interests of the Republic of Poland.
2. In the register the legal and factual basis shall be entered as well as the following data of an alien:
- 1) name (names) and family name (other names if used);
  - 2) name at birth;
  - 3) parents' names
  - 4) date and place of birth;
  - 5) sex;
  - 6) citizenship;
  - 7) place of residence.
3. The data of an alien shall be entered in the register for the following periods:
- 1) one year from the date of voluntary depart from the territory of the Republic of Poland within the time limit specified in the decision on obligation to leave the territory of the Republic of Poland, ordering to depart within a specified period, the

- decision on refusal of granting or withdrawal of the residence permit for a fixed period;
- 2) 3 years from the date of voluntary depart from the territory of the Republic of Poland within the time limit specified in the decision on refusal or withdrawal of the resident permit for a fixed period, ordering to depart within a specified period if the order to depart has been issued because of a threat to the state defence and security or public security and policy.
  - 3) 3 years from the date of execution of the decision on expulsion or the decision on withdrawal of the permit to settle or of the long-term resident's EC resident permit or the decision on refusal to grant the refugee status;
  - 4) 5 years from the date of execution of the decision on expulsion or the decision on withdrawal of the permit to settle or of the long-term resident's EC resident permit or the decision on refusal to grant the refugee status, if the costs of expulsion have been covered fully or partially by the State Treasury.
  - 5) 5 years from the date at which the execution of the punishment served on the basis of the sentences referred to in sec. 1, p. 3 has been completed;
  - 6) one year from the date of regulating fiscal liabilities to the State Treasury or from the date on which those liabilities were barred by the statute of limitations;
  - 7) the time limit stemming out from international treaties binding the Republic of Poland, referred to in sec. 1 p. 5;
  - 8) till 3 years in the case referred to in sec. 1, p. 6 with the possibility of extension on subsequent periods not exceeding 3 years.
4. The data of an alien shall be erased from the index after the expiry of the periods referred to in sec. 3.

#### **Art. 129**

1. Entry, extension of storage and erasure of the data entered in the index shall be carried out by the President of the Office for Repatriation and Aliens, ex officio or at the request of:
  - 1) the Minister of National Defence;
  - 2) the minister competent with respect to public finances;
  - 2a) the minister competent with respect to foreign affairs;
  - 3) the Commandant in Chief of the Police;
  - 4) the Commandant in Chief of the Border Guard;

- 5) the Chief of the Internal Security Agency;
  - 6) the Chief of the Intelligence Agency;
  - 7) the President of the Institute of National Remembrance – the Commission for the Prosecution of Crimes against the Polish Nation;
  - 8) a voivod;
  - 9) a consul.
2. If the President of the Office for Repatriation and Aliens refuses to consider the request of the authority referred to in sec. 1 as justified, the requesting authority may ask the minister competent with respect to internal affairs to settle the case.
  3. In the case referred to in sec. 2, the minister competent with respect to internal affairs may consider the request of the authority as justified and order the President of the Office for Repatriation and Aliens to: enter, extend or erase the data in the index.

#### **Art. 130**

1. The authorities of governmental administration which are in possession of the information about circumstances justifying the entry of alien' data referred to in art. 128 sec. 1 to the index shall be obliged to transmit those data to the President of the Office for Repatriation and Aliens.
2. When the decision on expulsion or on obligation to leave the territory of the Republic of Poland or the other decision specifying the time limit for leaving the territory of the Republic of Poland becomes final, the authority which has rendered that decision, shall be obliged to transmit its copy to the President of the Office for Repatriation and Aliens.
3. The court, which has sentenced an alien for the crime referred to in. Art. 128 sec.1 p.3 la shall transmit the copy of its final sentence to the President of the Office for Repatriation and Aliens.

#### **Art. 131**

1. An alien has the right to be informend, at his / her request, about entry of his / her data into the index.
2. The President of the Office for Repatriation and Aliens is obliged to inform the alien, within the period of 30 days from the date of his / her request, about the entry of his/her

data into the index, the period of the entry's validity and - in cases referred to in art. 128 sec. 1 p. 1, 2 - what authority made a request for that entry.

3. An alien may make a request for correcting his / her personal data entered into the index if he/she has found they are untrue. An alien may also make a request for deleting his/her data from the index if those data have been entered into the index as a result of a mistake.
4. The President of the Office for Repatriation and Aliens shall inform an alien about the settlement of the request referred to in sec. 3.
5. To proceedings in cases referred to in sec. 1 – 4, the provisions of the Code of Administration Procedure on certificates shall apply.

### **Art. 132**

1. The President of the Office for Repatriation and Aliens shall establish and run, in the form of teleinformatic system, the domestic set of registers and the index on aliens called “the Pobyt System”.
2. The Pobyt System shall consist of:
  - 1) the registers referred to in art. 124 p. 1 l. a-h, j with exception of the registers run by a consul;
  - 2) the register, referred to in art. 124 p. 3;
  - 3) the index referred to in art. 124 p. 4;
  - 4) the register of cases concerning the refugee status;
  - 5) the register of cases concerning the expulsion of aliens granted the refugee status;
  - 6) the register of cases concerning asylum;
  - 7) the register of cases concerning the tolerated stay;
  - 8) the register of cases concerning the temporary protection;
  - 9) the register of applications submitted, rulings and decisions rendered in the following cases:
    - a) concerning issue of the entry visa for the purpose of repatriation;
    - b) concerning assistance granted to repatriates from the state budget,
    - c) concerning recognition as a repatriate;
  - 10) the registers of applications submitted, rulings and decisions rendered as well as the register of the court judgements in cases:
    - a) concerning granting and prolongation of the residence permit of the European Union national and members of his / her family,

- b) concerning granting and prolongation of the temporary residence permit of the European Union national and members of his / her family,
- 11) the register of aliens applying for the issue of the entry visa for the purpose of repatriation and members of their families, who are not secured the accommodation or maintenance in the Republic of Poland.

**Art. 133**

1. The data processed in the Poby System, in the register referred to in art. 124 p. 1 l. k, as well as in the register of the fingerprints taken from the alien on the basis of art.14 sec.2, 93 sec. 1, art. 98 sec. 4 and art. 101 sec. 3 shall be made available to the following authorities:

- 1) the Commandant in Chief of the Police;
- 2) the Commandant in Chief of the Border Guard Headquarters;
- 3) the Chief of the Internal Security Agency;
- 4) the Chief of the Intelligence Agency;
- 5) the Minister of National Defence;
- 6) the minister competent with respect to public finances;
- 7) the minister competent with respect to internal affairs;
- 8) the Refugee Board;
- 9) a court;
- 10) the administrative court;
- 11) a prosecutor;
- 12) a voivod;
- 13) a consul;
- 14) the Chief of the Military Information Services;
- 15) the Commandant in Chief of the Military Police.

- within the scope necessary to perform their statutory functions.

2. The data processed in the Poby System, in the register referred to in art. 124 p. 1 l. k, as well as in the register of the fingerprints taken from the alien on the basis of art.14 sec.2, 93 sec. 1, art. 98 sec. 4 and art. 101 sec. 3 shall be made available shall be made available upon the written request of the authority referred to in sec. 1.

The data processed in the register of the fingerprints taken from the alien who has been rendered the decision on expulsion may be made available also at the request of the President of the Office for Repatriation and Aliens.

3. The data processed in the Poby System, in the register referred to in art. 124 p. 1 l. k, as well as in the register of the fingerprints taken from the alien on the basis of art.14 sec.2, 93 sec. 1, art. 98 sec. 4 and art. 101 sec. 3 may be made available without a need to submit a written request, referred to in sec. 2 via devices for data teletransmission for authority referred to in sec. 1 which fulfil jointly the following conditions:
  - 1) are in possession of the devices for recording in the Poby System information concerning what data, for what purpose, when, and by which user have been obtained;
  - 2) are in possession of safeguards of technical and organisational nature which protect the data from the use contrary to the purpose of its obtaining;
  - 3) it is justified by the specificity or scope of their functions.
4. The authority obliged to run registers referred to in art. 124 sec.1 p.1 lit a-h, j, k and points 2 and 3 as well as in art. 132 sec. 2 points 4-8 shall have the access to data processed in the Poby System in the register referred to in art. 124 p. 1 l. k, as well as in the register of the fingerprints taken from the alien on the basis of art.14 sec.2, 93 sec. 1, art. 98 sec. 4 and art. 101 sec. 3, within the scope of data gathered in registers run by this authority.
5. The data concerning the legal and factual base of the entry into the index shall not be made available for the authority referred to in sec. 1 p.12,13.
6. The data processed in the Poby System shall be made available by the President of the Office for Repatriation and Aliens. The data processed in the register referred to in art. 124 p. 1 l. k shall be made available by the commanding officer of the voivodship Police headquarter, the commanding officer of the Police district (poviat) or municipality, the commanding officer of the Border Guard Division, each within the scope of their competencies. The data processed in the register of the fingerprints taken from the alien on the basis of art.14 sec.2, 93 sec. 1, art. 98 sec. 4 and art. 101 sec. 3 shall be made available by the Commandant in Chief of the Police.

#### **Art. 134**

1. The data contained in the Pobyt System may be transferred abroad pursuant to international agreements binding the Republic of Poland.

## **Chapter 12**

### **The liability of the carrier**

#### **Art. 135**

1. The carrier, which brought an alien to the border by air, sea or land shall be obliged to undertake the activities necessary to ensure, that the alien, who intends to enter into the territory of the Republic of Poland is in possession of the travel document and the required visa, referred to in Art. 13 sec.1.
2. Provisions of sec. 1 shall also apply to international carriers transporting group overland by coach, with the exception of border traffic.

#### **Art. 136**

1. The carrier, which brought an alien to the border by air, sea or land shall be obliged to return the alien to the third country from which he / she was transported or - if it is not possible - to the third country which issued the travel document on which he / she travelled or to any other third country to which he / she is certain to be admitted if:
  - 1) the alien was refused entry into the territory of the Republic of Poland;
  - 2) the alien transiting through the territory of the Republic of Poland who was refused entry by the authorities of the country of destination or the authorities of the country adjacent to the territory of the Republic of Poland or if the carrier which should have carried the alien to that country refused to take him on board.
2. If the carrier is not able to fulfil the obligation referred to in sec. 1, it shall be obliged to find means of transportation and to bear the cost thereof in order to ensure the alien's departure without delay from the territory of the Republic of Poland.

#### **Art. 137**

1. An alien referred to in art. 136 sec. 1, may be rendered the decision on:

- 1) obligation to stay in the indicate place till the date of leaving the territory of the Republic of Poland on the costs of the carrier;
  - 2) the ban on leaving the board of seagoing vessel or aircraft;
  - 3) obligation to leave the territory of the Republic of Poland on the board of seagoing vessel or aircraft other than the one on which he / she arrived.
2. The carrier referred to in art. 135 sec. 1 shall cover the costs of the alien's stay on the territory of the Republic of Poland till the time of his / her departure from this territory only if the alien is not in possession of a travel document and a visa or is not authorised to enter another country or to return to this country of origin, if such a authorisation is required. In other events the costs shall be born by the State Treasury.

#### **Art. 138**

1. If the carrier brought by sea or by air into the territory of the Republic of Poland an alien who does not have the travel document required border crossing, referred to in art. 13 sec. or who is not authorised to enter another country or to return to the country of origin, if such an authorisation is required, an administrative fine in the amount of PLN equal to the sum not less than EUR 3000 to EUR 5000 for each person carried shall be imposed on the carrier.

The total sum of PLN for one carriage of the group of persons may not exceed equivalent of EUR 500 000.

2. The provisions of sec. 1 shall also apply to international carriers transporting group overland by coach, with the exception of border traffic.
3. The rate of exchange EUR for PLN shall be determined according to the medial rate of exchange published by the National Bank of Poland at the date of rendering the decision on imposing administrative fine.

#### **Art. 139**

1. Decisions in cases referred to in art. 137 sec. 1 shall be rendered by the competent commanding officer of the Border Guard checkpoint. Those decisions shall be made immediately enforceable.
2. Decisions rendered by the commanding officer of the Border Guard checkpoint shall be appealed against to the Commandant in Chief of the Border Guard.

3. At the request of the commanding officer of the Border Guard checkpoint, in which the alien was refused entry, the voivod competent with respect to the seat of the requesting authority shall impose the administrative fine, referred to in art. 138.

#### **Art. 140**

1. In the situation where the behaviour of an alien who has been refused entry into the territory of the Republic of Poland, gives a well-founded reason to suspect that he/she may cause a threat to safety of international land, air or sea communication, the commanding officer of the competent Border Guard checkpoint shall assure the escort of the alien on board of an aircraft or a sea vessel, at the request of the authorised representative of the carrier and at the cost of the carrier.
2. The costs of the escort shall include the costs of the carriage and costs of allowances owing to the guards due to the service travel abroad.

### **Chapter 13**

#### **The President of the Office for Repatriation and Aliens**

#### **Art. 141**

1. The President of the Office for Repatriation and Aliens hereinafter called "the President of the Office" shall be the central authority of governmental administration competent with respect to repatriation, entry of aliens in the territory of the Republic of Poland, the transit of aliens through that territory, the residence in and leaving it, granting to aliens the refugee status, asylum, tolerated stay and temporary protection as well as to the matters related to Polish citizenship following from the scope of functions of governmental administration with reservation for the competencies of other authorities as provided for in the laws.
2. The Minister competent with respect to internal affairs shall exercise supervision over the President of the Office.

#### **Art. 142**

1. The President of the Office shall be appointed and recalled by the Prime Minister, at the request of the minister competent with respect to internal affairs
2. For the post of the President of the Office may be appointed the Polish citizen who jointly meets the following conditions:
  - 1) resides permanently on the territory of the Republic of Poland;
  - 2) enjoys the public rights in full;
  - 3) has not been punished with a final sentence for committing an intentional crime.
  - 4) has a higher education degree.
3. The Vice-Presidents of the Office shall be appointed and recalled by the minister competent with respect to internal affairs, at the request of the President of the Office.
4. The President of the Office shall perform the functions with the assistance of the Office for Repatriation and Aliens, hereinafter called "the Office", which shall be the authority of the governmental administration.
5. At the request of the minister competent with respect to internal affairs the Prime Minister shall confer, by means of an ordinance, the statute of the Office, specifying the organisation of the Office, taking into account the scope of the functions of the President of the Office and the need of effective functioning of the Office.
6. The President of the Office may perform the functions by the branches of the Office.
7. The officers of the Border Guard, the State Fire Service and the Police may be delegated to work in the Office pursuant to the principles set forth in separate provisions.

#### **Art. 143**

1. The functions of the President of the Office shall be the following:
  - 1) rendering the first instance decisions and rulings in the matters regulated in:
    - a) this Act,
    - b) the Act of 15 February 1962 of Polish citizenship (J. L. 2000 No 28, it. 353 and J. L. 2001 No 42, it. 475, J. L. 2003, No 128, it. 1175),
    - c) the Act of 9 November 2000 on Repatriation,
    - d) the Act of 13 of June 2003 on granting protection to aliens within the territory of the Republic of Poland,
    - e) the Act of 27 July 2002 on principles and conditions of entry and residence of the citizens of the European Union Member States and their family members on the territory of the Republic of Poland.

- unless those functions have been conveyed to the other authorities;
  - 2) examining the appeals and complaints against the decisions and rulings rendered at the first instance by the other authorities in cases regulated in the acts referred to in p. 1, unless those functions have been conveyed to the other authorities;
  - 3) gathering information and making analyses concerning migration situation in the scope necessary to perform the functions laying within the competencies of the President of the Office;
  - 4) organisation and carrying out of trainings within the scope laying in the competencies of the President of the Office;
  - 5) conducting international cooperation, including providing the authorities of the European Union Member States with information referred to in art. 62 sec. 9 p. 1 and art. 71b sec. 8.
  - 6) performing of other functions regulated in this Act and in the separate regulations, within the scope necessary for conducting the proceedings pursuant to the acts referred to in p. 1.
2. The President of the Office shall control the performance of the functions resulted from the acts referred to in sec. 1 p. 1, by voivods, with regard to the accordance of voivods' activities with the law as well as with the policy in the area of migration, refugee and repatriation.
3. With regard to voivod, in cases regulated by this Act the President of the Office shall be the higher level authority, in understanding provided by the Code of Administrative Procedure.

#### **Art. 144**

1. The President of the Office, acting in consultation with the Commandant in Chief of the Border Guard, at the request of a consul, the commandant officer of the Border Guard checkpoint or ex officio, may authorise to entry and stay in the territory of the Republic of Poland an alien who does not meet the conditions of entry and stay specified in this Act, if it is justified by the humanitarian reasons or by the interest of the Republic of Poland. The provisions of the Code of Administrative Procedure and the Law of 11 May 1995 on the Supreme Administrative Court (J. L. No 74, it. 368) shall not apply to that authorisation as well as to its rendering. The authorisation and its rendering shall not be complained against to the administrative court.

2. The President of the Office shall present annually to the minister competent with respect to internal affairs information about the application of the provision of sec. 1 in the previous year.

#### **Art. 145**

The President of the Office shall use the round seal with the emblem of the eagle determined according to the pattern of the state emblem.

#### **Art. 146**

If it is justified by a significant increase of number of applications for granting the refugee status, referred to in the Act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland, the minister competent with respect to internal affairs, acting in consultation with the minister competent with respect to public administration, may, by means of an ordinance, establish and dissolve the branches of the Office, specifying territorial competence and the scope of activity of the branches, including the entitlement of the head of the branch to render the administrative decisions on authorisation of the President of the Office.

### **Chapter 14**

#### **Penal provisions**

#### **Art. 147**

Whoever takes for the purpose of appropriation or appropriates belonging to an alien the travel document, the residence card, the Polish travel document for an alien, the provisional Polish travel document for an alien or the identity Polish document for an alien or uses such a document shall be liable to a fine, restriction of liberty or imprisonment for the period of up to 2 years.

#### **Art. 148**

1. Whoever:

- 1) resides on the territory of the Republic of Poland without the required authorisation;
  - 2) in spite of the demand of the competent authorities does not present the documents and permits authorising him / her to residence on the territory of the Republic of Poland or does not present the financial means necessary to cover the costs of residence on that territory;
  - 3) evades the obligation to replace the residence card, the Polish travel document for an alien or the identity Polish document for an alien;
  - 4) does not comply with the obligation to leave the territory of the Republic of Poland specified in the decision on expulsion rendered on the basis of art. 88 sec. 1.
  - 5) does not comply with the obligation to report at specified intervals of time to the authority indicated in the decision on expulsion;
  - 6) leaves the place of residence indicated in the decision on expulsion;
  - 7) does not leave the territory of the Republic of Poland within the time limit specified in the decision on:
    - a) refusal or withdrawal of the residence permit for a fixed period,
    - b) withdrawal of the permit to settle,
    - c) withdrawal of the long-term resident's EC resident permit,
    - d) obligation to leave the territory of the Republic of Poland;
  - 8) does not report, within the time limit referred to in art. 79 sec. 1, the loss of the residence card, the Polish travel document for an alien or the identity Polish document for an alien;
  - 9) does not return, within the time limit referred to in art. 79 sec. 2, the found residence card, Polish travel document for an alien or identity Polish document for an alien, if he / she was issued a new one
    - shall be liable to a fine.
2. Ruling in cases of acts referred to in sec. 1 shall be carried out pursuant to the provisions of the Code of Procedure in Cases of Petty Offences.
  3. The penal order rendered in the course of proceedings by writ of payment shall be immediately enforceable.

## **Chapter 15**

### **Amendments in the regulations in force**

### **Art. 149**

1. In the Act of 24 March 1920 on acquisition of the immovables by aliens (J. L. 1996, No 54, it. 245) the following amendments shall be introduced in art. 8 sec. 1 p. 2 and 3:

- “2) acquisition of the immovables by an alien residing in the Republic of Poland for at least 5 years on the basis of the permit to settle,
- 3) acquisition of immovables by an alien married to the Polish citizen and residing in the Republic of Poland for at least 2 years on the basis of permit to settle, if the immovables acquired shall constitute by law the community property of spouses,”.

### **Art. 150**

In the Act of 15 February 1962 on the Polish citizenship (J. L. 2000, No 28, it. 353) after art. 17, art. 17 a shall be added in the following reading:

- “Art. 17 a. 1. In cases which remain within the competence of the voivod and the President of the Office for Repatriation and Aliens, those authorities may request the Commandant in Chief of the Border Guard, the Chief of the Internal Security Agency, the Chief of the Intelligence Agency and the Chief of the Military Intelligence, to present information necessary for the proceedings conducted.
2. The authorities requested to present information by the voivod or by the President of the Office for Repatriation and Aliens shall be obliged, within the time limit of 30 days, to make those information available within the scope necessary for the proceedings conducted.
  3. In particularly justified cases the time limit referred to in sec. 2 may be extended to 3 months. This fact shall be notified by the authority obliged to present information adequately to the voivod or to the President of the Office for Repatriation and Aliens”.

### **Art. 151**

In the act of 12 October 1990 on the Border Guard (J. L. 2002 No 171 it. 1399) the following changes shall be introduced:

- 1) art. 1 sec. 2 p. 4 l. d shall be given the following reading:

“d) crimes and petty offences specified in act of 13 of June 2003 on aliens (J. L. No 128, it. 1175);”

2) art. 9 e sec. 1p. 5 shall be given the following reading:

„5) specified in art. 147 of the act of 13 June 2003 on aliens,”.

## **Art. 152**

In the act of 6 July 2001 on gathering, processing and transmitting the criminal information (J. L. No 11, it. 1189) the following changes shall be introduced:

1) in art. 4

a) in p. 7 the full stop at the end shall be replaced with the coma, the words: “with reservation of p. 8,” shall be added,

b) after p. 7 the p. 8 shall be added in the following reading:

„8) the Domestic Informatic System - the separate database run in the Domestic Centre of Criminal Information for the need of the border control, the custom control, the control of the legality of aliens’ residence within the territory of the Republic of Poland as well as for the needs of other proceedings conducted pursuant to the laws.”.

2) after chapter 4 the chapter 4a shall be added in the following reading:

“Chapter 4a

The Domestic Informatic System

Art. 37 a. 1. In the Domestic Informatic System the following data shall be processed:

1) of aliens:

a) wanted in connection with the extradition motion relating to them or the motion ordering temporary arrest for the purpose of extradition,

b) to whom the motion for sending over for the purpose of penalty execution relates,

c) missing or protected in connection with a penalty proceeding currently pending,

2) of objects:

- a) stolen or missing mechanical vehicles, boats and yachts,
- b) stolen or missing weapons, ammunition and explosive materials,
- c) stolen or missing identity documents and their blank forms,
- d) banknotes reported as sought.

2. The data referred to in sec. 1, p. 1 shall include:

- 1) the name(s) and family name and the nickname,
- 2) date and place of birth,
- 3) citizenship,
- 4) sex,
- 5) distinguishing marks,
- 6) information that a person concerned may be armed,
- 7) information that a person concerned may use force,
- 8) the reason for entering the data of a person concerned into the Domestic Information System,
- 9) the manner recommended towards a person concerned.

Art. 37b 1. The data in the Domestic Informatic System shall be gathered, processed and made available by the Chief of the Centre.

2. The data from the Domestic Informatic System shall be made available, with reservation of the sec. 3, within the scope necessary to perform the statutory functions, to:

- 1) the Minister of National Defence,
- 2) the Minister of Justice,
- 3) the minister competent with respect to public administration,
- 4) the minister competent with respect to public finances,
- 5) the minister competent with respect to internal affairs,
- 6) the minister competent with respect to foreign affairs,
- 7) the Commandant in Chief of the Border Guard,
- 8) the Chief of the Internal Security Agency,
- 9) the Chief of the Intelligence Agency,
- 10) The President of the Office for Repatriation and Aliens,
- 11) a consul,
- 12) a voivod,
- 13) a prosecutor,
- 14) a court,

15) the Police.

3. The Chief of the Centre may consent, by means of a decision, to make available, via devices for data teletransmission, the data gathered in the Domestic Informatic System for authorities referred to in sec. 2, without a need to submit a written request, if those authorities fulfil jointly the following conditions:
  - 1) are in possessing of the devices for recording in the system information concerning what data, for what purpose, when, and by which user have been obtained;
  - 2) are in possession of safeguards of technical and organisational nature which protect the data from the use contrary to the purpose of its obtaining;
  - 3) it is justified by the specificity or scope of their functions.
4. The authorities referred to in sec. 2 p. 1-12 and 14, shall be obliged to transmit currently the data referred in to art. 37 a to the Domestic Information System.
5. The administrator of data who processes personal data for the needs of the Domestic Information System is released from the obligation to provide information specified in Art. 25 sec. 1 of the Law of August 25, 1997 on the Protection of Personal Data ( J. L. 2002 No 101, it. 926).
6. The processing of personal data in the Domestic Information System shall be subject to the control of the Chief Inspector for Personal Data Protection.”;

3) after art. 40 the art. 40 a shall be added in the following reading:

- „ Art. 40 a. 1. The data referred to in Art. 37a may be transmitted abroad pursuant to international agreements binding for the Republic of Poland.
2. The data received from the authorities of foreign countries may be included into the Domestic Information System.”.

## **Art.153**

In the Act of 27 July 2003 on principles and conditions of entry and residence of the nationals of member states of the European Union and members of their families on the territory of the Republic of Poland (J.L.No141, it.1180) the following changes shall be introduced:

1) in art.1 sec.2 shall be given the following reading:

“provisions of acts referred to citizens of member states of the European Union and members of their families shall apply to citizens of states of the European Economic Area and to citizens of other states which do not belong to the European Union but on the basis of agreements concluded with the European Union enjoy the free movement of persons, as well as to members of their familie.”;

2) in art. 32

a) sec.1 and 2 shall be given the following reading:

- “ 1. residence permits for a fixed period and residence cards issued on the basis of Act on 13 June 2003 of Aliens (J.L No 128, it. 1175) to aliens who are citizens of member states of the European Union shall remain valid.
2. Residence permits for a fixed period and residence cards issued on the basis of Act on 13 June 2003 of Aliens to aliens who are not citizens of member states of the European Union shall remain valid.”,

b) sec.5 shall be given the following reading:

“5. The entries into the registers run by the voivods on the basis of Act on 13 June 2003 on aliens referred to applications on granting the residence permit for a fixed period to aliens being citizens of the European Union and decisions rendered in those matters shall remain in those registers”

## **Chapter 16**

### **Transitional and final regulations**

#### **Art. 154**

1. An alien residing on the territory of the Republic of Poland continuously at least since the 1<sup>st</sup> January 1996, whose residence on this territory at the day of entry of this Act into force is illegal, who till 31 December 2003 submits an application for granting the residence permit for a fixed period, shall be granted that permit by the voivod competent with respect to the alien's place of residence. That permit shall be issued for the period of one year and only if it does not constitute a threat to the state security and defence as well as to the public security and policy, burden for a state budget and if it is not in breach of the interests of the Republic of Poland, provided that the alien:
  - 1) indicates the place of accommodation, in which he / she intends to reside and present a legal title authorising him / her to occupy such place and
  - 2) is in possession of a promise to issue the work permit in the territory of the Republic of Poland or an employer's written declaration confirming intention to employ him / her or entrust with other gainful work or perform function in boards of legal persons carrying out economic activity if work permit is not required or
  - 3) possesses income or property sufficient to cover the costs of his/her maintenance and medical treatment as well as maintenance and treatment of members of his/her family supported by him/her without the need to claim social assistance for the period of one year.
2. When performing activities aimed to check whether the alien's residence is illegal provisions of art. 64 sec.6 of this Act shall apply *mutatis mutandis*.
3. An alien who has submitted an application for granting the residence permit for a fixed period as well as the persons referred to in application shall be issued, by a voivod, a residence visa for the period necessary to complete the first instance proceedings on the residence permit for a fixed period.
4. Prior to issue of the decision on granting the residence permit to the alien whose data has been entered into the index of aliens, the voivod shall request –also the President of the Office- for providing information in the scope necessary to determine, whether the residence of an alien on the territory of the Republic of Poland shall constitute a threat to the state security and defence as well as to the public security and policy.
5. In a decision on refusal of the residence permit for a fixed period, the alien may be obliged to leave the territory of the Republic of Poland within the period indicated. To this decision the provisions regulating proceedings in cases of obligation to leave the territory of the Republic of Poland shall apply *mutatis mutandis*.

6. If the alien leaves the territory of the Republic of Poland within the period indicated in the decision referred to in sec.5, his/her data shall not be entered into the index of aliens, unless it is justified by the state security and defence as well as by the public security and policy.

#### **Art. 155**

1. If an alien who has stayed illegally on the territory of the Republic of Poland, reports this fact to the agency of Police or the Border Guard, within the time limit of 2 months from the date of entry of this Act into force, and leaves the territory of the Republic of Poland within the time limit specified in the decision on the basis of which he / she is obliged to leave that territory, his / her data shall not be entered into the index.
2. The provisions of art. 97 and art. 98 of this Act shall apply to rendering the decision referred to in sec. 1.

#### **Art. 156**

1. The residence cards, the documents, permits and visas issued on the basis of existing provisions shall be valid for the period they were issued for.
2. The provisions of sec. 1 shall not apply to the residence cards and the documents issued to an alien, to whom the provisions of the act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland shall apply.
3. The blank forms of invitation, in which the period residence on the territory of the Republic of Poland of the alien invited is specified as the number of days, may be used till 30 of October 2003.
4. The invitations issued on the blank forms referred to in sec. 2 shall remain valid till the day of accession of the Republic of Poland to the European Union however not longer until the expiry of their validity.

#### **Art. 157**

Whenever the provisions in force refer to persons holding temporary residence card or permanent residence card, they shall be regarded as persons who have been granted the residence permit for a fixed period or the permit to settle, respectively.

### **Art. 158**

1. The following provisions shall apply to the administration proceedings initiated before the date of entry of this Act into force and not completed with a final decision by this day:
  - 1) in cases of visas - up to the completion of the proceedings in the second instance - according to the recent provisions;
  - 2) in cases of the residence permits for a fixed period and the permits to settle according to the provisions of the present Act;
  - 3) in cases of the obligation an alien to leave the territory of the Republic of Poland, on expulsion and on the fines imposed upon the carriers - according to the recent provisions, with reservation of the art. 138 of the Act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland
  - 4) in other cases - according to the provisions of the present Act.
2. The provision of the sec. 1 p. 2 shall not apply to the residence permits for a fixed period granted to aliens with respect to whom the circumstances referred to in art. 17 sec. 2 p. 7 and 8 of the Act of 25 of June 1997 on Aliens (J.L.2001 No 127 it,1400 and J.L.2002 No 41 it.365, No 74 it.676 No 81 it.731 No 89 It.804 No 141 it.1180 and No 153 it.1271) have arisen.

### **Art. 159**

The aliens' data gathered in the index on the basis of the existing provisions, shall be stored for a period they were entered for.

### **Art. 160**

1. The registers established on the basis of this Act, may, within the period of 3 years from the entry this Act into force, be run in the form other than the teleinformatic system.
2. The authorities running the registers referred to in art. 124 p. 1, shall be obliged to mutual transmission of the data processed in the registers run by those authorities.

3. The President of the Office ensures that the data processed in the registers referred to in art. 124 sec. 1 shall be made available in the proper manner.

#### **Art. 161**

The entries into the registers run on the basis of the provisions in force shall be regarded, at the date of entry this Act into force, as the entries to the registers run on the basis of this Act.

#### **Art. 162**

The Chief of the Domestic Centre of Criminal Information shall establish the Domestic Informatic System till 30 of June 2004.

#### **Art. 163**

The tasks referred to in art. 95 sec.3 shall be carried out till 31 December 2003 by the commanding officer of the voivodship Police headquarter competent with respect to the alien's place of residence.

Up to the date the executory provisions provided for in the Act are issued, however not longer than throughout the period of 12 months, the existing executory provisions shall remain in force unless they are contrary to the present Act.

#### **Art. 165**

1. The provisions of the art. 3 p. 2, art. 31, art. 57 sec. 4 and art. 135-140 within the scope related to the land carriers shall apply from the date of accession of the Republic of Poland to the European Union
2. Provisions of art.27 sec.3, art. 47 as well as provisions of art. 51 sec.3 and 4 shall be repealed at the date of accession of the Republic of Poland to the European Union.

#### **Art. 166**

The act of 25 June 1997 on Aliens (J. L. 2001 No 127, it. 1400) and the act of the 11 April 2001 on the amendment of the Act on Aliens and the amendments of some acts (J. L. No 42, it. 475) shall be repealed.

**Art. 167**

The Act shall come into force on the day of 1<sup>st</sup> of September 2003, with exception of art. 50 sec. 3 and 4, art. 51 sec. 3 and art. 162, which shall come into force on the day of the publication.