

# Assignment to Poland: An appealing proposition for foreign employers

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**Employment, migration and social insurance rules make assignment abroad an attractive solution for foreign employers to leverage human capital for quick and effective launch or growth of operations in Poland.**

Poland is a popular destination for foreign investors to establish shared services centres for intra-group outsourcing of functions such as accounting, distribution and call centre.

Entities created in Poland to perform such services rely for their operations mostly on labour and knowhow rather than physical assets. This means they have to recruit the right staff and provide them the knowledge and skills they need to achieve business results in line with the standards of the group. The process of recruitment and training of staff, particularly in the case of entities that plan to hire dozens or hundreds of people, is time-consuming and labour-intensive, which generally rules out the possibility of developing new structures relying solely on the local labour force.

This means that foreign employers are increasingly interested in assignment of their current employees to serve in newly established subsidiaries and branches in Poland for short periods of several months to a few years. These employees, equipped with knowledge, skill and experience in the business conducted by their foreign employer, are responsible for creating the local structure, implementing internal procedures, recruiting and training local workers, and supervising the operations of the new entity until it becomes self-sufficient. With this approach, it is possible to launch such an entity within just a few weeks after it is established and registered.

But assignment of staff to Poland by foreign employers is an attractive solution not just businesswise, but also legally.



## Working and salary conditions during assignment

Unlike the case of assignment by Polish employers to work abroad, assignment by foreign employers of their employees to work in Poland does not require compliance with all regulations of Polish employment law with respect to the assigned employees. The terms of assignment must only meet the “minimal” conditions of employment set forth in Chapter II of the Labour Code (Art. 67<sup>1</sup>-67<sup>4</sup>). The foreign employer is required to provide an employee assigned to Poland conditions of employment no less favourable than those arising out of the Labour Code and other regulations governing the rights and obligations of employees in Poland with respect to:

- Norms and periods of working time and daily and weekly periods of rest

- Periods of annual holiday leave
- Minimum wage
- Overtime pay
- Occupational health and safety
- Parental entitlements
- Employment of youth
- Non-discrimination, and
- Work by temporary employees.

In practice, compliance by foreign employers with these minimal conditions for employment of staff assigned to Poland does not present great difficulties. The terms of assignment are established in agreements with the assigned staff or assignment letters. Polish regulations do not expressly require such documents to be prepared, but nonetheless an assignment letter or agreement confirming at the least the fact and period of assignment will be necessary to obtain a work permit if required in the specific instance.

#### **Legalisation of work and stay**

The rules and procedures for legalisation of work and stay of staff assigned to Poland by foreign employers also help make assignment an accessible and relatively easy solution for foreign employers launching or continuing operations in Poland. One reason assignment is such a fast and easy method for deploying foreign staff in Poland is that the position does not have to be offered to local job candidates first.

Citizens of countries from the European Union or the European Economic Area or Switzerland assigned to work in Poland by foreign employers are not required to obtain a work permit, stay permit or visa at all in order to perform work and stay in Poland for the period of assignment—without time restrictions. Such employees must register their stay in Poland, however, if the period of their assignment and related stay in Poland exceeds 3 months. This obligation should be fulfilled the day following the end of 3 months from the date of entry into Poland. But this is a formality, and the province governor's office will typically register the stay and issue the relevant certificate on the spot, without a fee.

The regulations impose somewhat greater requirements for assigned employees who are not citizens of EU or EEA member states or Switzerland. The recent new Foreigners Act of 12 December 2013 did not introduce any significant changes in this respect.

Employees from such third countries assigned to work in Poland by foreign employers must still hold two documents: a work permit and a stay document (i.e. a visa or temporary stay permit), without the possibility of substituting a unified permit for both stay and work. In practice, however, these documents can be obtained easily and in a relatively short time. While the foreign employer must obtain a work permit for the assigned employee, which is issued in Poland by the province governor for the place of assignment, the employer may conduct the entire procedure through an attorney. Obtaining a permit requires essential information about the foreign employer, the entity in Poland and the employee, and basic supporting documents (registry documents, a copy of the employee's passport, and the assignment letter). The permit is generally issued within one month after filing of a complete application, for a fee of PLN 50–100.

Additionally, an assigned employee who is not a citizen of an EU or EEA member state or Switzerland must obtain a Polish work visa, issued on the basis of the work permit. However, employees who are citizens of the US, Canada, South Korea and other countries enjoying this exemption may begin work in Poland pursuant to their assignment on the basis of the work permit alone, without a visa, for the first 90 days of their stay in Poland. The obligation for them to obtain a visa (or temporary stay permit) applies only when their assignment in Poland continues beyond 90 days.

#### **Social insurance**

EU and international regulations also provide for easier social insurance arrangements for employees assigned to Poland by foreign employers. These regulations allow assigned employees to remain within the coverage of the social insurance systems of their assigning countries, particularly when they are assigned for short periods of up to a few years.

Thus, for example, under a set of European regulations on coordination of social security systems (1408/71 (EEC), 574/72 (EEC), 883/2004 (EC) and 987/2009 (EC)), staff assigned to work in Poland by employers operating in an EU or EEA member state or Switzerland who were covered by social insurance in the assigning country for at least a month before their assignment to Poland will continue to be covered by the social insurance system of the assigning country for an assignment period not exceeding 24 months. To confirm this entitle-

ment, the foreign employer must obtain a Form A1 from the social insurance institution in the assigning country certifying that social insurance premiums for the employee are paid to the relevant institution in the country of employment and thus the employee is insured there. Holding this certificate provides an exemption from payment of social insurance in Poland.

Similar solutions are provided for in treaties between Poland and other countries, such as the Social Security Agreement between the United States and Poland and the Social Security Agreement between Canada and Poland, both signed on 2 April 2008. The US agreement provides that an employee will continue to be covered by the US social security system if sent by his or her US employer to work in Poland temporarily for a period not expected to

exceed 5 years. Employees covered by the Canadian social security system will continue to be covered by that system during a period of assignment to Poland not exceeding 60 months. As in the case of assignment within the EU or EEA, the foreign employer is required to obtain a certificate for the assigned employee confirming that he or she is covered by the US or Canadian system.

In addition to provisions concerning social insurance, there are also numerous tax treaties in place allowing assigned employees to avoid double taxation of the income they earn while assigned to work in Poland.

All of these aspects together make assignment of employees an attractive solution for foreign employers seeking to quickly develop their business in Poland.

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