

SALIENT FEATURES OF THE NEW POLISH IMMIGRATION LAW PERTAINING TO FOREIGN WORKERS

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The Philippine Embassy in Warsaw, Poland recently conducted a forum to update the Filipino community in the said country on the various provisions of the New Act on Foreigners. The new law was signed by President Bronislaw Komorowski on 27 December 2013, and took effect on 1 May 2014. The Act governs rules of entry and residency of foreigners in the territory of Poland and replaces the previous Aliens Act dated 13 June 2003. (The New Act on Foreigners was put into force to meet the EU legal requirements of simplifying the immigration procedures in Poland, especially for foreigners who already reside legally in Poland).

The following are the salient provisions of the new Act:

- A foreigner employed in Poland will now be entitled to apply for residence and work permit in a single procedure. Currently, it is the employer wishing to employ a foreigner in Poland who must apply for the work permit for such a foreigner who may apply for a residence permit only after the work permit has been granted. The existing procedure of issuing work permits will not be eliminated and the employer will still have a possibility to obtain a work permit for a foreigner while the new immigration allows visa application for a foreigner wishing to work in Poland.
- The maximum period a temporary residence permit may be granted to a foreigner has been extended from two to three years. The application for such a permit may be submitted by a foreigner at any time during his legal stay in Poland, unlike the previous rule of 45 days before the expiry of his/her visa or current residence permit.
- A foreigner who does not obtain the right of residence or protection in Poland, or who has lost his right, should leave the territory of Poland within thirty (30) days from the day when a final decision refusing such right is delivered. If a foreigner fails to leave Poland within the said deadline, the Border Guard will issue a decision obliging such a foreigner to return to his/her country of origin. However, the foreigner will not be forced to wait in a detention facility until the decision is implemented. The Act introduces alternative measures, such as cash security, passport deposit, or the obligation to stay in a specific place. Placing a foreigner in a detention facility will only be a measure of last resort.
- The Act provides for assistance in voluntary return. The Border Guard will grant humanitarian protection or consent for tolerated stay, if there are grounds for protection against deportation, such as family bonds in Poland or the situation in the country of origin.
- The new Act also introduces a novel provision that affords permits for victims of human trafficking.

For the information and guidance of all concerned.

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