

Rights of foreigners in administrative procedure

What is an administrative procedure?

Inhabitants of each country have contacts with state institutions, which take up decisions in their matters. These include matters concerning issuance of documents, reception of various kinds of assistance, settlement of official errands.

In the case of foreigners the administrative procedure includes, among others, examination of the matters concerning:

- legalization of stay
- issuance of documents
- granting social assistance.

Those matters are settled according to „administrative procedure code”. It is an act which stipulates the rights and duties of people in contacts with institutions and the duties of offices in relation to their clients.



Obligations in administrative procedure

→ Obligation to inform about change of address of residence

The person participating in the proceedings has an obligation to inform an institution about change of address of residence in the case of moving to another place. Information or decision sent to the former address is considered delivered. Failure to notify about change of address can have serious effects (e.g. time limit for appeal expires).

→ Obligation to answer a summon

Persons participating in the administrative proceedings are obliged to answer a summon of an institution. If due to disability or illness they cannot do it, the law provides for the possibility to accept explanations by an institution at the place of residence of a given person (e.g. at home, in a hospital).

→ Fees in administrative proceedings

Fees are collected for many kinds of administrative proceedings. Persons who are not able to pay those fees may submit, together with the application in their case, the application for exemption from payments. A public administration body may in justified cases exempt from such a fee (or part of the fee) the persons who are not able to pay them.

Persons who receive social assistance due to their poverty have the right to be exempted from fiscal charge required in some cases. To that effect they have to present the certificate confirming reception of such assistance.

→ Rights to complaints, requests and petitions

If an institution does not take up actions in a given case (e.g. does not issue a decision or refuses to issue a certificate) a foreigner has the right to lodge complaint to a higher instance agency.

or participate in them. In such a situation the organization does not represent a foreigner but monitors the course of the proceedings and verifies if the interest of a foreigner is not violated.

→ Right to personal data protection

Constitution of the Republic of Poland prohibits public authorities from acquiring, collecting and disclosing information concerning private affairs of inhabitants of the Republic of Poland. Institutions may demand only that information from their clients which are necessary for examining a given case.

The power of attorney is granted in writing or orally and is entered into the protocol. The power of attorney shall be annexed with confirmation of payment of the required fiscal charge. In the case of lodging a copy of power of attorney, the copy shall be certified by a notary.

→ Participation of social organizations in the proceedings

A social organization (e.g. non-governmental organization) may participate in the proceedings if it is justified by operation purposes of such an organization and supported by social interest. An organization may request to initiate proceedings in a given case



General principles

According to the Polish Constitution and the administrative procedure code, officials of state institutions are obliged to follow several general principles:

- all people in Poland have equal rights. Foreigners have the right of equal treatment irrespective their race, nationality or religion
- public administration bodies act on the basis of legal regulations. It means that any action of state institutions shall comply with legal provisions
- public administration bodies shall operate efficiently and quickly.

Successive steps of administrative procedure

Usually, the procedure starts at the moment of lodging any application to an institution by a foreigner. The application must be submitted in writing in the Polish language (in some procedures the forms include instructions and information in English and French, nevertheless the application shall be completed in Polish). The application shall be filled in legibly in print. An institution is left a specific period of time to react in a given matter. Depending on the matter, offices issue decisions, certificates or copies – all those documents are

issued in writing. Each of them shall include information concerning time limits and possibilities of filing an appeal.

Time limits

Depending on the situation, the law provides for various time limits of settling a matter:

- simple matters shall be settled “immediately”, i.e. as quickly as possible
- matters which require explanation shall be settled within a month
- matters particularly complex shall be settled no longer than within two months.

There are types of administrative proceedings which may last longer. For example the refugee status determination procedure at the 1st instance shall last no longer than 6 months.



A foreigner has the right of appeal or complaint against each decision. The time limit and manners of filing such an appeal or complaint shall always be included in the notification which is added in the final part of a decision document. The person dissatisfied with the reply of the second instance has the right to lodge a complaint to the Province Administration Court (Wojewódzki Sąd Administracyjny), within a given time limit.

Foreigners' rights in the administrative procedure

→ Right to information

In communication with public administration bodies each person has the right to information concerning the course of proceedings, possibility of appeal and other aspects which can influence the person's understanding of his/her rights and duties in a given case. Officials are obliged to offer necessary explanations and instructions. The person participating in the proceedings has the right to access the files of his/her case at each stage of proceedings.

→ Right to communicate in the language intelligible to a foreigner

Offices conducting cases of foreigners are obliged to offer information on principles and course of proceedings, and on rights and duties of a foreigner in the proceedings in the language intelligible to him/her.

Simultaneously, the documents presented by a foreigner in the case prepared in the language other than Polish shall be delivered together with sworn translation in the Polish language. An exception is the refugee status determination procedure in Poland. In that case the documents may be presented in the original language.

→ Right to an attorney

Each person may appoint an attorney, i.e. another person who will represent his/her interests in the proceedings unless the procedure explicitly obliges a foreigner to participate in the proceedings personally. The attorney does not have to be a lawyer, however he/she shall have an unlimited legal capacity (which means the attorney has to be of full legal age).



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