

## Legal assistance in non-governmental organisations (NGOs)

Several organisations in Poland offer legal assistance for foreigners free of charge. Things worth knowing:

- lawyers at organisations do not charge foreigners with any fees, their assistance is free. Lawyers are paid by their organisation, which receives subsidies for providing such assistance.
- non-governmental organisations that specialise in providing assistance to foreigners have the right to join the proceedings pending before a court. What that means in practical terms is that they may present the court with their stance in the case of a particular foreigner and express their opinions in court in their case.
- most organisations providing assistance to foreigners have standards of providing legal assistance, just like legal counsels and legal advisors.

## When a lawyer infringes on your rights

However, it may happen that a lawyer handled the case of a foreigner improperly, e.g. by giving wrong advice, or failed to meet deadlines prescribed by the law, e.g. lodged an appeal, or an application for a residence permit too late. In that case, a foreigner is entitled to enforce their rights.

**A foreigner may seek indemnity** if they incurred a financial loss in relation to improper actions of a lawyer or of any other person assisting them.

It will be the easiest to obtain such an indemnity from lawyers that have an insurance policy – in practice, legal counsels, or legal advisors. In such a case money may be obtained directly from an insurance company, without a need to bring a case to court. When making a choice of a lawyer, it is worth asking if they have such a policy. If they do not, a foreigner will be able to seek indemnity before a civil law court.

**A foreigner may bring a case for compensation** to a civil law court against a dishonest lawyer – if they did not incur any financial loss, but had problems of different kind. In the course of the proceedings, a foreigner will have to prove

## Remember!

If your case ends contrary to what you intended, that does not mean that the lawyer made a mistake, or represented your interests improperly. Maybe, in that specific case, the conditions that allow obtaining a positive decision were not met.

It is also possible that the authority examining the case made a mistake and the desired effect will be attained only after lodging an appeal or a complaint

that a given person really handled their case and name the obligations which that person had. For that reason, it is worth storing documents confirming that a foreigner was assisted by a lawyer, or a representative - a written agreement, or copies of statements which foreigners sign when being provided legal assistance by a non-governmental organisation.

A foreigner also has the right to lodge a **complaint** against a lawyer or a non-governmental organisation working improperly in the foreigner's opinion.

A complaint against a legal advisor, or a legal counsel is lodged with a chamber of legal advisors or with a bar association. The complaint shall include a description of an improper behaviour of a legal advisor, or a legal counsel and/or the mistakes made. If the chamber or the association decides that the complaint is legitimate, a disciplinary proceedings is initiated against that person.

A complaint against a non-governmental organisation is lodged to the supervisory authority, that is most frequently to a president of the city where the organisation operates. A complaint may be lodged if the operations of an organisation were or are illegal.

A foreigner may also lodge a complaint against an employee of a non-governmental organisation – it should be addressed to their superior. If a complaint is legitimate, it may be a ground for punishing that employee in accordance with the labour code.

Unfortunately, there is no possibility to lodge a complaint against an independent lawyer or a legal advisor not being a lawyer.

### Based on the provisions of:

- The Act of 14 June 1960 - Code of Administrative Procedure;
- The Act of 30 August 2002 - Law on proceedings before administrative courts;
- The Act of 6 July 1982 on legal advisors;
- The Act of 26 May 1982 - Law on the Bar.

# Legal assistance in proceedings to legalize stay in Poland

edition 2012



Stowarzyszenie  
Interwencji  
Prawnej



Wojewoda Mazowiecki

The matters related to the legalization of stay of a foreigner in Poland are frequently quite complicated, and resolving certain complex issues requires decent knowledge of the Polish law and the practice of applying it.

Foreigners are entitled to use legal assistance on the same principles as Poles. In Poland, legal assistance is usually provided against a fee, however there are a few non-governmental organisations which for years have been conducting free legal assistance programmes for foreigners.

The choice of a lawyer or an attorney is very important for a foreigner, as reliability and competences of such a person may be decisive as regards the successful completion of a procedure to legalise stay. If a lawyer or an attorney turns out to be dishonest or incompetent, a foreigner has a possibility to seek indemnity or other type of compensation.

## Legal assistance in Poland is offered by:

- a) professional law firms – they offer assistance against a fee,
- b) non-governmental organisations – they offer assistance free of charge.

One may also use assistance of individual advisors-attorneys (against a fee). However, it is worth remembering that **not all attorneys are lawyers**.

## What does „legal assistance” mean?

Legal assistance consists in particular in giving legal advice, drawing up various letters, e.g. appeals against decisions, or complaints to the court as well as representing other persons before offices and courts.

Lawyers offer very diverse legal assistance. It is worth remembering that some actions may be taken only by legal counsels and legal advisors.

## Each lawyer can:

**Each lawyer can** – such a person will help a foreigner understand their legal situation, indicate and explain legal provisions, which influence the future of a foreigner.

## Attorney in administrative proceedings

Attorney, that is a person who completes the formalities at an office on behalf of a foreigner, may be any person – that does not have to be a lawyer.

Authorising someone to speak on your behalf may have very serious consequences. It is very important to entrust your matter to a person who has knowledge of law, has experience in matters related to legalisation and is a trustworthy person.

Such information frequently helps the foreigner take decisions that are best for them and avoid various mistakes.

**Prepare documents** – a lawyer may assist both in filling in an application, e.g. for a residence permit, correctly, and in completing relevant certificates and documents.

**Write an appeal against a negative decision of an office** – a lawyer may prepare an appeal against a negative decision for a foreigner.

## NOTE! Only legal counsel or legal advisor has the right to:

**Lodge a complaint to an administrative court on behalf of a foreigner** – in the case where it turns out that the administrative authorities examining the case of a foreigner breeched legal provisions or interpreted these provisions incorrectly.

**Represent a foreigner before a court** – only legal counsel or legal advisor may defend the rights of a foreigner in court proceedings and act on behalf of a foreigner in court.

Hence, if a foreigner uses the assistance of a lawyer who is neither a legal advisor nor a legal counsel, a foreigner will have to manage the following matters on their own:

- sign a complaint in their own case; a lawyer may prepare the document, but a foreigner has to sign it in person. That may be difficult if a foreigner is no longer staying in Poland,
- represent own interests in proceedings before a court.

## How to prepare oneself for a meeting with a lawyer?

It is worth preparing oneself for a meeting with a lawyer. One should take all documents related to a given case with them, even the ones that are seemingly of little importance. The lawyer may be in a position to assess the situation properly and come up with a proper piece of advice or action strategy for a foreigner only if they will be able to familiarize themselves with all aspects of the case and the related documents.

It is worth preparing oneself for a meeting with a lawyer. One should take all documents related to a given case with them, even the ones that are seemingly of little importance. The lawyer may be in a position to assess the situation properly and come up with a proper piece of advice or action strategy for a foreigner only if they will be able to familiarize themselves with all aspects of the case and the related documents.

Information prepared by Polish Migration Forum Foundation (Fundacja Polskie Forum Migracyjne) as part of the project: „Information Center for Foreigners 2” („Centrum Informacyjne dla Cudzoziemców 2”).

Project co-financed from funds of the **European Fund for the Integration of Third-Country Nationals** and the State budget.

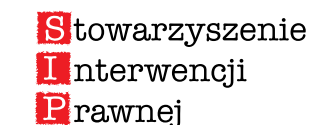
The project partners:

**Association of Legal Intervention**  
[www.interwencjaprawna.pl](http://www.interwencjaprawna.pl)

**Mazowieckie Province Governor**  
[www.mazowieckie.pl](http://www.mazowieckie.pl)

**Polish Migration Forum**  
[www.forummigracyjne.org](http://www.forummigracyjne.org)

Polish Migration Forum is liable for the content of the publication. Opinions presented in it in no way reflect the official position of the European Union.



Wojewoda Mazowiecki



Ministerstwo Spraw Wewnętrznych

