

Poland
Restrictions in free movement of capital vis-a-vis third countries
(outside UE/EEA)
situation as of 1st May 2004

No	Restriction	Legal basis
I.A Direct investments in Poland		
<i>Horizontal restrictions</i>		
1.	Acquisition of real estate for investment purpose - permission is needed	The Act of 24 march 1920 on acquisition of real estate by foreign persons (single text - JL 1996, No 54, item 245, with amendments : JL 1997, No 140, item 939JL 1998, No 106, item 668; JL 2001, No 16, item 166; JL 2002, No 113, item 984; JL 2003, No 128, item 1175, JL 2004, No 49, item 466)
2.	<p>Permanent establishment:</p> <p>a) according to the Act of 19 November 1999 – Economic Activity Law:</p> <ul style="list-style-type: none"> - foreigners who have received permission for residence on the territory of Poland, permission for tolerated stay, refugee status granted in Poland or who enjoy temporary protection on its territory, may undertake and pursue economic activity on the territory of Poland on the same rules as Polish citizens; - following reciprocity requirement, if ratified international agreements do not provide otherwise, foreign persons may take up and pursue economic activity on the territory of Poland on the same rules as entrepreneurs having their seat in Poland; - when there is no reciprocity, foreign persons have right to undertake and pursue economic activity on the territory of Poland only in a form of limited partnership, limited liability company and joint-stock company; they have also right to join these companies or to take and buy their shares or stocks; <p>b) according to the draft of the Act on the Freedom of Economic Activity:</p> <ul style="list-style-type: none"> - citizens of countries from outside the European Union or the European Economic Area, who have received permission for residence on the territory of Poland, permission for tolerated stay, refugee status granted in Poland or who enjoy temporary protection on its territory, may take up and pursue economic activity on the territory of Poland on the same rules as Polish citizens; - foreign persons, other than mentioned above, have right to take up and pursue economic activity only in a form of limited partnership, limited joint-stock partnership, limited liability company and joint-stock company; they have also right to join these companies or to subscribe and buy their shares or stocks unless international agreements decide otherwise. <p>c) according to the Act of 19 November 1999 – Economic Activity Law and draft of the Act on the Freedom of Economic Activity</p> <p>Branches - to conduct economic activity on the territory of Poland, foreign entrepreneurs may establish branches, following the rule of reciprocity requirement, if ratified international agreements do not state otherwise. The economic activity of the branch must be similar to the one which is conducted by the foreign entrepreneur and the person entitled to represent the foreign entrepreneur must</p>	<p>The Act of 19 November 1999 – Economic Activity Law JL1999, No 101, item 1178 (with amendments: JL 2000, No 86, item 958 art. 7; JL 2000, No 114, item 1193 art.5; JL 2001, No 67, item 679 art.40; JL 2001, No 49, item 509 art.72;JL 2001, No 102, item 1115 art.2; JL 2001, No147, item 1643 art.1;JL 2002, No 1, item 2 art.3; JL 2002, No 115, item 995 art.1;JL 2002, No 130, item 1112 art.220;JL, 2003, No 86, item 789 art.67; JL 2003, No 128, item 1176 art.133; JL 2003, No 217, item 2125 art.1; JL 2004, No 54, item 535 art.142)".</p> <p><i>The draft of the Act on the Freedom of Economic Activity (send to the Parliament on 15th October 2003)"</i></p>

		- Law of 29 July 1992 on games and mutual wagering (consolidated text JL. 2004 No 4 item 27).
Provision of legal services		
	Legislation in force provides for – as from 10 February 2003 – restrictions on provision of legal services which relate to the conditions of practising the profession of lawyer rather than to the free movement of capital. These restrictions are as follows: - practising by third country lawyers the profession on the permanent in Poland basis is subject to reciprocity requirement, unless the international agreement ratified by the Republic of Poland or the provisions of the international organisation the Republic of Poland is a member thereto provide otherwise (Art.3 of the above mentioned Act of 7 July 2002); - the scope of practise of third country lawyers is limited to giving legal advice and preparing legal opinions on domestic law of their country of origin and on international law (Art.18 of the above mentioned Act of 7 July 2002); - the legal forms in which third country lawyers may practice are limited to registered partnership and limited partnership (Art.19 of the above mentioned Act of 7 July 2002).	Act of 7 July 2002 on the provision by foreign lawyers of legal assistance in the Republic of Poland, Journal of Laws of 2002, No 126, item 1069 with subs.amendments
Services in insurance and capital market		
1.	Foreign insurance undertakings may take and pursue insurance activity in the territory of the Republic of Poland, under the principle of reciprocity. This principle shall not apply to the countries being members of the World Trade Organisation (Article 104 of the Act). The taking-up of insurance activity by foreign insurance undertaking, requires a licence issued by the Insurance and Pension Funds Supervisory Commission. The activity may be conducted solely through main branch of foreign insurance company.	The Act of 22 May 2003 on the insurance activity (JL 2003, No 124, item 1151)
2	Running brooking activity by a branch or representative office upon approval of the Polish Securities and Exchange Commission	The Law on Public Trading in Securities of 21 August 1997 (JL 2002 No 49 item 447 with amendments ;JL 2001 No 110 item 1189; JL 2002 No 240 item 2055; JL 2003 No 50 item 424; JL 2003 No 84 item 774; JL 2003 No 170 item 1651; JL 2003 No 124 item 1151; JL 2003 No 223 item 2216; JL 2004 No 64 item 594)
I. B Direct investments abroad		
1.	Residents' direct investments abroad – except for OECD, BITs countries**) and Russia, Kyrgyzstan, Armenia, Georgia, Turkmenistan, South Africa and Algeria***)	The Act of 27.07.2002 the Foreign Exchange Law (Journal of Laws No. 141 item 1178, from 2003 No. 228, item 2260) [article 9 item 7 letter a-b] and the Ordinance by the Minister of Finance of 3 September 2002 concerning general foreign exchange permits (Journal of Laws No. 154 item 1273, from 2004 No. 73 item 658) [§ 1 item 2, § 3 item 5 letter a-b]
2.	Subject to the provisions of Article 39 paragraph 1, the establishment of a bank abroad by a domestic bank and the establishing abroad of a branch of a domestic bank, shall require authorisation from the Commission for Banking Supervision This requirement applies to third countries - outside EEA	The Act - Banking Law of 29 August 1997 (single text - Journal of Laws 2002, No. 72, item 665 with amendments: JL 2002, No 126, item 1070, No 141, item 1178, No 144, item 1208, No 153, item 1271, No 169, item 1385 and 1387, No 241, item 2074, JL 2003, No 50, item 424, No 60, item 535, No 65, item 594, No 228, item 2260, No 229, item 2276, JL 2004, No 64, item 594, Nr 68, item 623, No 91, item 870)
II.A Investments in real estate in Poland		
1.	Complete restriction, except for: buying independent apartment or buying real estate by a foreign national living in Poland at least for 5 years after obtaining the permanent residence card; buying by a legal person with a corporate seat in Poland and controlled directly or indirectly by a foreign natural person or a foreign legal person with a corporate seat abroad, for statutory	The Act of 24 march 1920 on acquisition of real estate by foreign persons (single text - JL 1996, No 54, item 245, with amendments : JL 1997, No 140, item 939; JL 1998, No 106, item 668; JL 2001, No 16, item 166; JL 2002, No 113, item 984; JL 2003 No 128, item 1175, JL 2004, No 49, item 466)

	Treasury. Limitation not applied in turnover with OECD countries	letter a, item 4 letter a and c)
2.		
V. A and B Operations on the money market abroad		
1.	Acquisition and disposal by residents, in third countries, of derivative financial instruments and securities with less than one year maturity Limitation not applied in turnover with OECD countries	The Act of 27.07.2002 the Foreign Exchange Law (Journal of Laws No. 141 item 1178, from 2003 No. 228, item 2260) [article 9 item 7 letter d and f, article 9 item 8] and the Ordinance by the Minister of Finance of 3 September 2002 concerning general foreign exchange permits (Journal of Laws No. 154 , item 1273, from 2004 No. 73 item 658) [§ 3 item 5 letter d, item 9 letter a]
VI. A Operations in current and deposit accounts in Poland		
1.		
VI. B Operations on current and deposit accounts abroad		
1.	.Opening by the residents of bank accounts in banks with registered seat in third countries, with the exception of accounts opened in relation with permitted direct investments carried out in these countries, accounts opened in relation with permitted investments in securities in these countries and accounts opened and held during residents' stay in these countries. Limitation not applicable to opening of bank accounts in OECD countries	The Act of 27.07.2002 the Foreign Exchange Law (Journal of Laws No. 141 item 1178, from 2003 No. 228, item 2260) [article 9 item 9] and the Ordinance by the Minister of Finance of 3 September 2002 concerning general foreign exchange permits (Journal of Laws No. 154 , item 1273, from 2004 No. 73 item 658) [§ 3 item 10]
VIII. Financial credits and loans		
1.	Short-term financial credits and loans, except for credits and loans connected with trading in goods and providing services, direct investments in the form of companies and credits and loans carried out in private transactions among the closest family members. Limitation not applicable to turnover with OECD countries.	The Act of 27.07.2002 the Foreign Exchange Law (Journal of Laws No. 141 item 1178, from 2003 No. 228, item 2260) [article 9 item 10-11] and the Ordinance by the Minister of Finance of 3 September 2002 concerning general foreign exchange permits (Journal of Laws No. 154 , item 1273, from 2004 No. 73 item 658) [§ 3 item 12-17]
IX. Sureties, other guarantees, right of pledge		
1.	Providing or establishing of security (personal or collateral) by residents in favour of nonresidents from third countries with respect to receivables that are due to them from other non residents Limitation not applicable to turnover with OECD countries.	The Act of 27.07.2002 the Foreign Exchange Law (Journal of Laws No. 141 item 1178, from 2003 No. 228, item 2260) [article 9 item 11]
X. Personal capital movements		
1.	Certain restrictions for short-term loans, which may be extended only among closest family members, and donations consisting of means of payment granted by residents to non-residents from third countries - such donations may be granted only up to the equivalent EUR 10,000 per donation. Above said restrictions are not applicable to turnover with non residents from OECD countries.	The Act of 27.07.2002 the Foreign Exchange Law (Journal of Laws No. 141 item 1178, from 2003 No. 228, item 2260) [article 9 item 10-12] and the Ordinance by the Minister of Finance of 3 September 2002 concerning general foreign exchange permits (Journal of Laws No. 154 , item 1273, from 2004 No. 73 item 658) [§ 3 item 16-18]
XI. Physical import, export of financial assets		
1.	there are quota limits: Export of means of payment – bank certificates are required in case of exportation of means of payment total value of which exceeds 10.000 euro. Import of means of payment – written declaration is required in case of import of means of payment total value of which exceeds 10.000 euro	The Act of 27.07.2002 the Foreign Exchange Law (Journal of Laws No. 141 item 1178, from 2003 No. 228, item 2260) [article 9 item 3, article 18] and the Ordinance by the Minister of Finance of 3 September 2002 concerning general foreign exchange permits (Journal of Laws No. 154 , item 1273, from 2004 No. 73 item 658) [§ 4]

*) this restriction applies all the countries

**) Poland has signed 58 Bilateral Investment Treaties (BIT's) with following countries: Albania, Argentina, Australia, Austria, Azerbaijan, Bangladesh, Belgium, Belarus, Bulgaria, Chile, China, Croatia, Cyprus, Czech Republic, Denmark, Egypt, Estonia, Finland, France, Greece, Hungary, Italy, Netherlands, India, Indonesia, Israel, Yugoslavia, Canada, Kazakhstan, South Korea, Kuwait, Lithuania, Latvia, Luxembourg, Macedonia, Malaysia, Morocco, Moldova, Norway, Portugal, Germany, Rumania, Singapore, Slovak Republic, Slovenia, Spain, Switzerland, Sweden, Thailand, Tunisia, Turkey, Ukraine, Uruguay, USA, Uzbekistan, United Kingdom, United Arab Emirates, Vietnam.

***) Russia, Kyrgyzstan, Armenia, Georgia, Turkmenistan, South Africa and Algeria - nor BIT or OECD countries, with which European Communities and their Member States concluded so-called "mixed agreements".