

Basic legal aspects of branch and representative office activity in Poland

Branch office

Under the Polish law, a foreign entrepreneur may, based on the reciprocity principle, set up its branch in the Republic of Poland. The scope of the branch's activity may include only the activity that is performed by the entrepreneur in the country of its incorporation.

Establishment of a branch office requires registration in the Register of Entrepreneurs kept by the National Court Register. Along with the application, the entrepreneur is obliged to provide the act of incorporation of the entity in the country of origin (for example: Articles of Association, Memorandum of Association, etc.) together with the resolution on the establishment of the branch.

The entrepreneur's branch should bear the entrepreneur's original name along with a Polish translation of the entrepreneur's legal form supplemented with the phrase "*oddział w Polsce*" (branch in Poland). A Foreign entrepreneur is also obliged, pursuant to the Polish accountancy regulations, to run separate account books in Polish and to fulfill information obligations in relation to the Minister of Economy. Financial transfers between a registered office of the entrepreneur and the branch are not considered as taxable and therefore would not result in any obligation to pay income tax or value added tax.

A branch office does not possess a legal personality, nor judicial or bankruptcy capacity; the entrepreneur is always liable for all its branch's activities. There is no minimum capital requirement.

Representative office

Setting up and running a representative office requires an entry in the Register of the Representative Offices of Foreign Entrepreneurs kept by the Minister of Economy. Under the Polish law, foreign banks and credit institutions are exempt from this obligation.

The scope of the activity of a representative office is narrow. It embraces only the activity of advertising and promotion of a foreign entrepreneur.

A representative office may also be set up and run by foreign entities incorporated in the country of origin to promote the economy of that country, however the scope of such representation may only include promotion and advertising of the economy of that country.

Legalisation of documents

Documents in Polish should be provided with their sworn translation. If an entrepreneur operates in the territory of a country being a party to the Hague Convention of 5 October 1961 Abolishing the Requirement of Legalisation for Foreign Public Documents, each document attached to the application may be certified by the apostille if the entrepreneur operates on the territory of a non-party.

Recent changes

The package of bills adopted recently in Poland, collectively defined as a constitution of business, modified some of the legal aspects of the operations of representative offices and branches of foreign entrepreneurs. The issue is covered by the Act of March 6, 2018 *on the rules for the participation of foreign entrepreneurs and other foreign persons in trade on the territory of the Republic of Poland*.

Some changes have been made to simplify the registration process. The Act abolishes the obligation to submit in the registration procedure a document entitling a foreign entrepreneur to use the premises for the needs of the representative office (commonly a lease agreement). The Act also eliminates the obligation to submit to the National Court Register specimen signatures of persons authorized to represent the entrepreneur.

In addition, according to the new regulations, the obligation to conduct liquidation proceedings of a branch is limited to the situation in which liquidation is a result of a ban on its activity issued by the Minister of Economy.

Anyway, some of the recent changes have rendered the registration process more complicated. The Act introduces a new obligation of filing, along with the application, of a document confirming the authorization of an indicated person to represent a foreign entrepreneur in the representation office as well as a consent of the said person to be appointed to this end.

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