

Doing business in Poland

A Guest Article by Andrew Blatiak
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Country at the crossroads

Poland has an area of some 312,700 square kilometres and a population of some 38 million. Several million more Poles live in Germany, the UK and the USA. English is now the second language, although Russian is widely understood – with German being better known in western Poland.

The currency is the zloty (PLN) and the exchange rate is 4.3 zl to 1 UK pound (GBP) at the time of writing (July 2008).

The average gross salary is now just over 3,000 PLN a month.

Poland has a position at the crossroads of continental Europe, which has meant that for many centuries the nation has attracted the various attentions of neighbours. But now, Poland can capitalise on this location by acting as a gateway from west to east, as a foothold for foreign direct investment into the emerging territories of Eastern Europe and as a source of young, highly skilled workers.

Influential economy

Economically, Poland's growth is strong – at around 6% in 2007 – partly because there is still much catching-up to do with the rest of Europe.

As one of the largest EU countries, Poland's economy promises to influence that of the UK in the years to come. Opportunities abound in terms of joint ventures, licensing agreements, strategic investment and greenfield investments.

The largest conurbations are:

- Katowice/Upper Silesia – population 3,500,000
- Warsaw – population 2,700,000
- Kraków – population 1,400,000
- Łódź – population 1,300,000
- Tri-city (Gdańsk, Gdynia, Sopot) – population 1,100,000
- Poznań – population 940,000

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Politics in Poland

Poland has a parliamentary democracy, established in 1991 after decades of communist rule. Parliament is bicameral, consisting of the Senate and the lower house, the Sejm. Both chambers are elected, the latter through a system of proportional representation, with a term of office lasting for four years. The executive is vested in a Prime Minister and a Cabinet.

President

The head of state is the President, who is directly elected for a five-year term of office and may only stand for two terms. As head of state, the President has the power to veto any legislation passed by parliament but has an essentially ceremonial role in most matters, including the appointment of the Prime Minister and deputy prime ministers.

Prime Minister

The Prime Minister represents the Cabinet, both through directing its work and by acting as a committee chairman. The Prime Minister is free to select Cabinet members but the selections must be approved by the Sejm.

Provinces

Poland is divided into 16 provinces, known as voivodships (województwa). The governor, or voivod, of each voivodship is responsible for:

- implementing government policy
- public safety
- transferring public finance
- monitoring the spending process.

Voivods are appointed by the Prime Minister.

There is also a regional parliament (sejmik) in each of the 16 voivodships, headed by a chairperson (przewodniczący), which deals with regional policy. Voivodship boards (zarząd województwa) are executive bodies at the regional level, headed by a marshal (marszałek).

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Among a marshal's duties are setting development policy and controlling the regional self-government executive bodies. In particular, marshals are responsible for:

- creating a proper environment for regional development
- shaping the regional labour market
- developing the regional infrastructure (both social and technical)
- education
- research and development
- innovation
- environmental protection
- culture.

A marshal also prepares a regional development strategy and represents the region externally.

Business in Poland

Although it is becoming easier to set up a business in Poland, there are still a number of obstacles. These include bureaucracy, corruption, an ageing transport infrastructure and a high tax burden on business. Bureaucracy in particular has a reputation for complexity and inflexibility, although this has improved dramatically from the early 1990s and will continue to change.

Productive sectors

In 1989, 70% of Poland's exports went to the Soviet Bloc. Today, 70% of Poland's exports go to the other EU member states. Agriculture and heavy industry together account for just over one third of Poland's GDP. The service sector is growing from year to year.

The bulk of GDP growth is generated by exporters, many of whom are large foreign investors taking advantage of Poland's lower labour costs. Companies in the automotive sector (Fiat, General Motors, Volkswagen, Toyota and Delphi), as well as those in sectors such as household goods (Philips, LG, Siemens-Bosch, Ceramaspeed), furniture (Ikea) and food processing, are becoming significant exporters, alongside producers of the coal, steel and copper that Poland has traditionally sold abroad.

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The agricultural products that are sold include potatoes, fruit, vegetables, wheat, poultry, eggs, pork and dairy. The main industries include machine building, iron and steel, coal mining, chemicals, shipbuilding, food processing, glass, beverages and textiles.

Energy

Around 80% of Poland's electricity is derived from coal. Very little hydroelectric power is produced, owing to the mostly flat nature of the landscape. Poland does not have any nuclear power stations.

EU membership

In June 2003, 77% of voters cast their votes in favour of Poland's EU accession, which happened on 1 May 2004. EU membership has already had an enormously positive impact on the country, with the UK opening its own labour market to Polish people, resulting in some 500,000 Poles working in the UK.

Polish exports are doing well within Europe. Polish farmers are receiving direct EU payments, investing in equipment or choosing to retire through EU-supported schemes.

EU structural funds are also beginning to flow into Poland and UK companies are showing a great interest in helping Poland to modernise road, rail and water networks, as well as to liberalise power distribution and communications.

Corporate law in Poland

The most common business entities used by investors from the UK are:

- representative offices
- branch offices
- limited liability partnerships
- limited liability companies
- joint stock companies.

Representative offices

A company from the UK may establish a representative office (przedstawicielstwo) in Poland only for the purpose of conducting advertising and promotional activity on behalf of the parent company. Applications to

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register a representative office are typically processed by the Ministry of Economy within two weeks.

A representative office must maintain separate accounts but will not be subject to Polish taxation. The limited scope of activity that a representative office can undertake makes it an unsuitable medium for most foreign investors.

Branch offices

A company from the UK may establish a branch office (oddział) in Poland. A branch office can undertake any activity that its parent company can undertake in its home state. Registration of a branch office by the National Court Register typically takes four weeks.

Branch offices have to maintain separate accounts under Polish accountancy law and are subject to Polish tax on activities conducted in Poland.

Limited liability partnerships

A limited liability partnership (spółka komandytowa) (an 'LLP') is very similar to a UK limited partnership. An LLP is founded by two or more partners. At least one partner (the general partner) has unlimited liability towards the partnership's creditors and at least one (the limited liability partner) is liable towards the creditors only up to the amount of his or her limited partnership share.

The tax treatment of an LLP is similar to that of a partnership. The LLP itself is not subject to corporate income tax. Therefore all the partners in an LLP have to tax their income separately. An LLP is, however, subject to VAT.

Limited liability and joint stock companies

Most foreign investors in Poland have undertaken business through a Polish subsidiary, usually in the form of a limited liability company. A foreign investor may incorporate a subsidiary in Poland, either in the form of a limited liability company (spółka z ograniczoną odpowiedzialnością – the abbreviated form of which is sp z o.o.) or in the form of a joint stock company (spółka akcyjna – the abbreviated form of which is S.A.).

A limited liability company is the Polish equivalent of a UK private limited company. A joint stock company is the equivalent of an UK public limited company (PLC).

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Foreign investors are allowed to own 100% of the share capital in both types of company. Companies are regulated by the Commercial Companies Code of 2000 ("the Code"). The registration of companies in the National Court Register is handled by the Registry Court.

Formation of a limited liability company or joint stock company in Poland typically takes between two and three months, depending upon the Registry Court where the company is to have its headquarters.

The minimum share capital of a limited liability company is PLN 50,000, which must be paid up in full when the application to incorporate the company is filed at the Registry Court.

The minimum share capital of a joint stock company is PLN 500,000. A joint stock company can issue partly paid shares. A minimum of 25% of the share capital must be paid in at the time of incorporation.

Pending registration of a limited liability company or joint stock company in the Registry Court, a company in the process of formation can enter into contracts.

Which to choose: limited liability or joint stock?

The main advantage of trading as a joint stock company rather than a limited liability company is that only joint stock companies have the right to apply to the Securities and Exchange Commission to have their shares admitted to public trading. In return for this benefit, joint stock companies are subject to more stringent controls in the Code than limited liability companies.

Employing foreigners in Poland

As of 1 May 2004, EU citizens may work in Poland without a work permit, and are given preference over those from non-EU countries seeking work. Non-EU citizens can only be employed with a valid work permit. Non-EU citizens can generally only be employed if an EU citizen cannot be found to fill the vacancy.

Before embarking on the process of employing a foreigner, a Polish employer must in the majority of cases advertise the position and receive a written confirmation from a local labour office that no Polish national is suitably qualified.

Foreigners sitting on a management board must have a work permit. This requirement does not apply to those foreigners who, while preserving their permanent place of residence abroad in the territory of Poland, perform a

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function on the management board of a company for maximum of 30 days in a calendar year.

Cultural issues

It is commonly assumed that Polish labour costs are very low and that Poland is perceived as a developing country. This was true in the early 1990s, and today you will still find regions, industry sectors and types of job where employment costs are several times lower than in the EU. However, Poland is catching up when the total cost of employment is considered. Poland has the highest non-labour costs borne by employers of any OECD country – a substantial 39%.

Polish managers

A common belief relates to the experience and capabilities of Polish managers. There seem to be many highly educated people with a wide range of professional expertise. But some of them have experience that is not very deep.

The Polish economy developed so fast during the past decade that a talent vacuum sucked ambitious young managers into senior positions far more quickly than in the case of their contemporaries in the West. Unlike the latter, they did not stay long enough in the same position to obtain sufficient exposure and acquire deep knowledge and understanding of the business.

Many middle and senior Polish managers are still fairly young (early 30s) and still very ambitious. They tend not always to be realistic in their judgement as far as their levels of experience and remuneration are concerned. At the same time, older managers who made their careers during the communist era had great difficulties adjusting to the demands of aggressive, sales-led organisations set up by Western investors.

For these reasons, when acquiring a company it is worth considering a management audit or some other form of capabilities verification before making a final decision to employ or re-employ a manager.

UK-Poland relations

The UK sees Poland as a key business partner and ally in Europe, with a strong track record of dynamic trade relations. The UK is the sixth biggest exporter of goods to the Polish market and the sixth largest foreign investor in Poland. But there is potential for levels of trade and investment to be much more significant.

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EU enlargement has created a single European market of 465 million people, removing barriers and promoting economic integration to our mutual benefit. The UK was one of only three member states (along with Ireland and Sweden) to allow free movement of workers from Poland and other new member states.

Most EU states have now opened – or intend to open – their labour markets to new EU citizens, thus increasing competition for UK employers looking to recruit Polish workers.

Cultural relations with the UK

There is an active British Council in Warsaw, one of the largest British Council operations in the world. The main service is English language teaching. There are several regional learning centres around Poland.

In the UK there are various cultural centres, catering for the large Polish community in the UK. They cover a wide range of interests. In London, one example is the Polish Cultural Institute, a non-profit organisation set up by the Polish Foreign Ministry.

Polish migrant workers

Critics of the continued expansion of the EU have raised concerns that EU accession of Eastern European countries will lead to an influx of migrant workers from east to west. This has resulted in many countries imposing movement restrictions on Polish nationals.

The European Commission reported in February 2006 that, contrary to popular belief, migrant workers from the new member states have actually helped to boost the economies of those countries (Sweden, the UK and Ireland) that did not impose any restrictions.

Andrew Blatiak

If you would like more information on any of the points covered in this Guest Article, please contact **TCii** on **020 7099 2621**.