

# Education of foreign PhD students in Poland

Introduction and Labor Law

Mgr Witold Pawelski





# Introduction

# Who are you?

You are a PhD student - a "young scientist" in Polish law.

You are studying at a doctoral school

You are studying at doctoral studies

You are preparing your doctoral dissertation on an extramural basis

# And who are they? A short dictionary

## “Professional titles” (examples)

Licentiate (degree) - Licencjat

Engineer - Inżynier

Master's degree – Magister

Master of Engineering – magister inżynier

Medical doctor (not PHD) - lekarz

**In the system of higher education and science, the following titles and degrees are granted**

- scientific degrees and degrees in art:
  - a) doktor,
  - b) doktor habilitowany;
- 2) title of profesor.

# A Brief History of Higher Education Reform in Poland

- On October 1, 2018, ACT of 20 July 2018 The Law on Higher Education and Science entered into force. It replaced the Act The Act of 27 July 2005 - Law on Higher Education. The most important change for doctoral students was the change in the method of educating doctoral students and the establishment of doctoral schools.
- Due to the period of transformation, the old doctoral studies and the new doctoral schools now operate in parallel

# ACT of 20 July 2018 The Law on Higher Education and Science

- <https://konstytucjadlanauki.gov.pl/content/uploads/2020/06/act-of-20-july-2018-the-law-on-higher-education-and-science.pdf?fbclid=IwAR2Qar8BDNkmKgXPhHHXXAeJjR5NJqVD1VhUqdBX1uTGZjlX9fk0wmu8Ry0>

# ACT of 20 July 2018 The Law on Higher Education and Science - structure

- PART I General provisions
- Part II Higher education
- Part III Post-graduate studies, specialist education and other forms of education
- Part IV Federation
- PART V Degrees and titles in the system of higher education and science (Chapter 2 Degree of doktor!! Art. 185 – 197). (Unit 2 Doctoral education! Art. 198 – 217)
- PART VI Evaluation of the quality of education, evaluation of doctoral schools and evaluation of the quality of scientific activity
- PART VII Disciplinary liability (Chapter 3 Disciplinary liability of doctoral students Art. 322!!)
- PART VIII Foreigners in the system of higher education and science (Art. 323 – 341)
- PART IX Representative institutions of the community of higher education and science
- and the minister's auxiliary bodies
- PART X IT systems in higher education and science
- PART XI The minister's scholarships and awards, Prime Minister's awards
- PART XII Financing the system of higher education and science and financial management of a higher education institution
- PART XIII Supervision of the system of higher education and science
- PART XIV Special provisions
- PART XIVA Personal data processing
- PART XV Final provision



# Where can I get help and advice?

## The academy

- Our PhD thesis supervisor
- Colleagues from universities
- Doctoral Students' Council  
Dean's office
- University authorities (vice-dean, dean, head of doctoral school, head of doctoral studies, etc.)

## Professional legal assistance

- The PHD STUDENT OMBUDSMAN
- An attorney (adwokat, radca prawny)
- A patent attorney (rzecznik patentowy)
- A tax advisor (doradca podatkowy)



# PhD thesis supervisor

- Scientific supervision over the preparation of a doctoral dissertation is provided by the supervisor or promoters or by the supervisor and the auxiliary supervisor. (Art. 190.)
- The supervisor and reviewer may be a person with a postdoctoral degree or the title of professor, and the auxiliary supervisor - a person with a doctoral degree.

- An academic teacher and a researcher may not, without justifiable reason, refrain from performing the functions of a supervisor, assistant supervisor, reviewer in the procedure for awarding the doctoral degree, postdoctoral degree or the title of professor, as well as the function of the reviewer referred to in Art. 238 paragraph. 2.

# Dean's office

- Typically, administrative matters:
- Receipt of applications
- Extending the validity of the card

# University authorities

- Dean for student (and doctoral) affairs
- Vice-rector for doctoral affairs
- Director of the doctoral school
- Head of doctoral studies
- Rector

# Self-government of doctoral students

- Organization at universities present at the university
- It operates on the basis of the statute and regulations
- She should help PhD students
- People who sit in the organs perform this function socially, therefore the help does not have to be professional

# PhD Student Rights Ombudsman

- The Doctoral Student Rights Ombudsman is a person whose task is to uphold the rights of a doctoral student, investigate signals of suspected violations of doctoral students' rights and, if necessary, intervene in the event of violations of doctoral students' rights.
- The Ombudsman works by:
  - undertaking mediation and explanatory actions in individual cases (including appearing, with the consent of the person concerned, before university authorities);
  - monitoring and supporting the observance of doctoral student's rights;
  - developing and issuing reports and recommendations on problems with observing the rights of doctoral students;
  - organizing information campaigns.
- Legal assistance from the Ombudsman for Doctoral Students is free of charge.

# Professional legal assistance

- An Attorney (adwokat, radca prawny)
- A Patent Attorney (rzecznik patentowy)
- A Tax advisor (doradca podatkowy)



# Judicial system

- Administrative courts (Voivodship Administrative Courts and the Supreme Administrative Court) - hear cases in the field of administrative matters, e.g. a complaint against a decision to remove from the list of doctoral students
- Common courts (district court, district court, court of appeal) - cases in the field of criminal, civil, family and guardianship law as well as labor and social security law, which are not reserved for other courts.
- Supreme Court
- Constitutional Court

- a complaint to the Constitutional Tribunal, the Supreme Administrative Court and the Supreme Court is brought through an advocate or legal advisor. In some cases, it is also possible through the agency of a patent attorney or tax advisor (the Supreme Administrative Court only )



# Labor law

# The most pivotal act

- The Labour Code. Kodeks pracy
- How to find in English? Good question
- [http://ilo.org/dyn/natlex/natlex4.detail?p\\_isn=45181](http://ilo.org/dyn/natlex/natlex4.detail?p_isn=45181)
- International Labour Organisation

- Art. 18. § 1. The provisions of employment contracts and other acts pursuant to which
- the basis of an employment relationship may not be less favorable to the employee than
- labor law regulations.

# Can I operate in Poland without a work permit?

- This problem is complicated
- It depends on what country you come from
- What kind of work do you want to do
- Are you a PhD student from a PhD school or PhD

# General rule

- PhD students from the European Union do not need a work permit. They are treated like Polish citizens !!!!
- PhD students from outside the European Union:
- PhD students in doctoral studies may work without a work permit
- PhD students from doctoral schools ..... probably need a work permit
- Extramural doctoral students need a work permit
- But all PhD students can work without a university permit !!



# But it's best to ask the clerk

The law in Poland is changing rapidly

# Types of contracts in Poland

- Employment contract (Polish employment contract) (proper employment contract, you are protected by the Polish Labor Code - you can defend your rights in the labor court)
- Civil law contracts:
- Contract of mandate (Polish contract of mandate) - you are not protected by the Polish Labor Code. Under normal circumstances, this is a B2B contract
- Contract for specific work (Polish: Contract for specific work) - you are not protected by the Polish Labor Code. Under normal circumstances, this is a B2B contract

# The Labour Code

- Art. 1. The Labor Code defines the rights and obligations of employees and employers.
- Art. 2. An employee is a person employed under an employment contract, appointment, election, appointment or a cooperative employment contract.
- Art. 3. An employer is an organizational unit, even if it does not have one legal personality, as well as a natural person if they employ employees.
- Art. 3<sup>1</sup> § 1. For an employer who is an organizational unit of activities in matters relating to labor law, the person or body managing it entity or another designated person.
- § 2. The provision of § 1 shall apply mutatis mutandis to an employer who is a person physical, if he or she does not personally perform the activities referred to in this provision.

# Art. 25. Types of employment contracts.

- § 1. An employment contract is concluded for an indefinite period of time, a definite period of time or the time of the completion of a specified task. If it is necessary to substitute an employee due to their justified absence from work, an employer may, for this purpose, employ another employee under an employment contract for a definite period of time comprising the absence.
- § 2. Each of the employment contracts referred to in § 1, may be preceded by an employment contract for a trial period of up to 3 months.
- Art. 251
- . Conclusion of a third contract for a definite period of time.
- § 1. The conclusion of a subsequent employment contract for a definite period of time has the equivalent legal effects as the conclusion of an employment contract for an indefinite period of time, if the parties had previously concluded two employment contracts for a definite period of time in succession, where the interval between the termination of the preceding and the establishment of the subsequent employment contract was no longer than 1 month.
- § 2. If, within the duration of an employment contract for a definite period of time, the parties agree upon a longer period of performance of work than previously provided for, it is deemed that the parties have concluded, from the date following the termination of the previous contract, a subsequent employment contract for a definite period of time as defined in § 1.
- § 3. The provision of § 1 does not apply to employment contracts for a definite period of time concluded:
  - 1) for the purpose of substituting an employee during a justified absence from work,
  - 2) for the purpose of completing occasional or seasonal work, or tasks performed periodically.

Annual leave.

- **Art. 152-173**

# Lex specialis derogat legi generali

- Art. 196. 1. An employee who is not an academic teacher or researcher shall be
- entitled, at their request:
- 1) to a leave to prepare a doctoral dissertation or to prepare for the defence of a doctoral dissertation, granted in a period agreed with the employer, amounting to 28
- days, which are working days for that employee within the meaning of separate
- regulations, and
- 2) to an exemption from work to defend their doctoral dissertation.
- 2. For the period of leave and exemption from work, the employee shall be entitled to remuneration calculated in the same manner as for the holiday leave

- Art. 155. Inclusion of education periods.
- § 1. Graduating from the following schools means the following periods are counted into the employment of period on which the length of leave is based:
- 1) basic or other equivalent vocational school - the duration of the education provided for by the syllabus, but not more than 3 years,
- 2) secondary vocational school - the duration of the education provided for by the syllabus, but not more than 5 years,
- 3) secondary vocational school for graduates of basic (equivalent) vocational schools - 5 years,
- 4) middle comprehensive school - 4 years,
- 5) post-comprehensive school - 6 years,
- 6) school of higher education - 8 years.
- The periods of education referred to in points 1-6 cannot be aggregated.
- § 2. If an employee attended school while being employed, the employment period determining the length of leave includes either the duration of employment while attending school, or the duration of attending school, whichever is more favourable to the employee.



- the period of doctoral studies is included in the length of service, regardless of whether it has been successfully completed for a maximum of four years

# Can I work at the university as a PhD student?

## **doctoral studies**

- Yes

## **doctoral school**

- No. A doctoral student may not be employed as an academic teacher or researcher. The prohibition does not apply to employment for the purpose of carrying out a research project. This prohibition does not apply to a doctoral student teacher employment / work incurred after the mid-term period ending as the next, that the ratio in the period of the size of the work, the amount of employment is 40% of the monthly scholarship referred to in Art. 209 paragraph. 4 point 2. The Act will not grant a job in a position or a job other than an academic or researcher.

# Insurance and taxes

- If you work in Poland under an employment contract, your employer will register you for insurance. The salary is contributed. Your employer will also send you a PiT-37 tax form
- The contract of mandate and the contract for specific work are similar, as long as you do not run your own business
- Your employer pays tax advances for you
- Sometimes there is an underpayment for your last deposit and you have to pay a small amount. Sometimes there is an overpayment, and the tax authority returns your money

# Portal podatkowy

- <https://www.podatki.gov.pl/>
- <https://www.podatki.gov.pl/pit/twoj-e-pit/>

# Bibliography

- <https://konstytucjadlanauki.gov.pl/content/uploads/2020/06/act-of-20-july-2018-the-law-on-higher-education-and-science.pdf?fbclid=IwAR2Qar8BDNkmKgXPhHHXXAeJjR5NJqVD1VhUqdBX1uTGZjlX9fk0wmu8Ry0>
- <https://krd.edu.pl/o-nas/wladze/o-rzeczniku-praw-doktoranta/>
- <https://www.podatki.gov.pl/>
- <https://www.podatki.gov.pl/pit/twoj-e-pit/>
- <https://konstytucjadlanauki.gov.pl/content/uploads/2020/06/act-of-20-july-2018-the-law-on-higher-education-and-science.pdf?fbclid=IwAR2Qar8BDNkmKgXPhHHXXAeJjR5NJqVD1VhUqdBX1uTGZjlX9fk0wmu8Ry0>
- [http://ilo.org/dyn/natlex/natlex4.detail?p\\_isn=45181](http://ilo.org/dyn/natlex/natlex4.detail?p_isn=45181)  
International Labour Organisation

Projekt „Lokalny Ambasador Praw Doktoranta” organizowany jest przez Krajową Reprezentację Doktorantów ze środków Ministerstwa Edukacji i Nauki w ramach zadania publicznego „Organizowanie i animowanie działań na rzecz środowiska akademickiego” w 2021 r.



Ministerstwo  
Edukacji i Nauki

Krajowa  
Reprezentacja  
Doktorantów | **KRD**

Dziękuję za uwagę