

De-registration through administrative procedure

De-registration of a person through administrative procedure is regulated by the Law of 24 September 2010 on Register of the Population (hereinafter referred to as the Law). Pursuant to Art. 33.1 of the Law, a Polish citizen who has left his or her place of permanent residence or place of temporary residence before the expiry of the specified period is required to de-register. If the obligation is not complied with on a voluntary basis, then, pursuant to Par. 35 of the Law, the competent municipal authority issues, ex officio or on the dwelling owner's application, a decision on de-registration of the Polish citizen who has left his or her place of permanent residence or place of temporary residence before the expiry of the specified period and failed to comply with the de-registration requirement. The procedure may be initiated ex officio or on application by a party. An application for de-registration through administrative procedure may be filed by the owner of a given dwelling or anyone who holds a document confirming their title to the dwelling or property. Registration of residency is a purely technical activity; registration of residency or the lack of registered residency does not create a title to the dwelling and it may not take away such a title. The objective behind de-registration is only to confirm that a given person does not stay at the previous place of residence anymore. De-registration is allowed only when the following requirement is met: the person in question has left the dwelling for good and out of their own will. The place of permanent residence is understood as the place where a given person performs their basic life functions, i.e. they live there on a permanent basis, sleep, rest, store things and accept visits by family and friends. Whether the person has left the previous place of residence permanently is confirmed by: the person not physically staying at the specified address; the person's willingness to stay at a new place; and the lack of the person's desire to return to the previous place of residence.

Leaving the premises voluntarily is a particularly important issue. If the person has been removed from the premises forcibly, this does not constitute leaving of the previous place of permanent residence. However, a voluntary change of place of residence is not the only case of leaving of the premises on a voluntary basis; there is also a case when a given person previously domiciled in the dwelling has been removed from it by the owner and has not exercised, in due time, their remedies that would allow them to return to the premises. Still, the lack of voluntary leaving of the premises is not always an obstacle to de-registration. A good example in question is eviction performed based on a court's decision, which is conducted by a court enforcement officer. In this situation we have a case of forced abandonment of the place of residence, as a result of which the decision to register the evicted person is sufficiently substantiated. Staying in a care or psychiatric institution may not be considered a reason to de-register a person. The fact that the person enters a treatment precludes permanent and voluntary leaving of the previous place of residence as leaving the premises in this situation is caused by objective circumstances, not the person's will. The situation is different for the underage who are placed in foster care pursuant to a judgement of the family court. This is an example of voluntary leaving of the premises and it can be a valid reason to de-register a person from the previous place of residence.

In order to initiate the administrative procedure of de-registering a person from the premises, you must file an application and present the grounds for the application and other information, including the person's personal details, when the person to be de-registered left the premises, circumstances surrounding the leaving of the premises by the person, the current address of the person who has failed to de-register from the previous place of residence. Preferably, the names of people who can be called as witnesses re-

garding the leaving of the premises by the person who failed to comply with the registration requirement should be supplied. The following documents should be attached to the application: copies of the documents confirming the title to the premises (e.g. an excerpt from the land and mortgage register) and proof of payment of the relevant stamp duty (PLN 10). The competent authority initiates an administrative procedure on the basis of the application, which leads to a relevant decision.

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