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# Road Traffic Accidents

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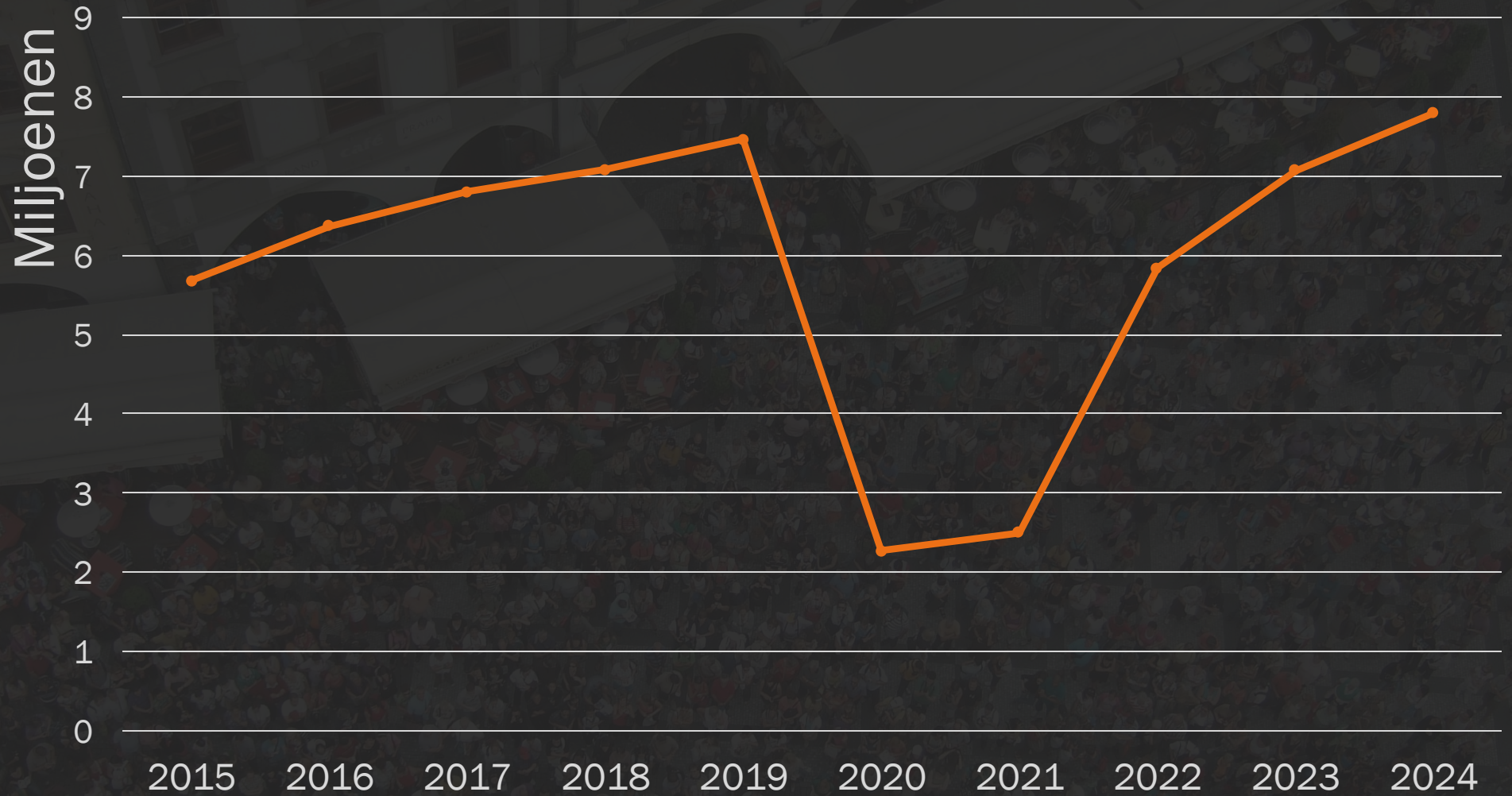
CROSS BORDER CLAIMS

POLISH PERSPECTIVE





# Number of foreign tourists in Poland over the years



— Tourists in Poland



# 1. Cracow



# 3. Warsaw



# 2. Lublin

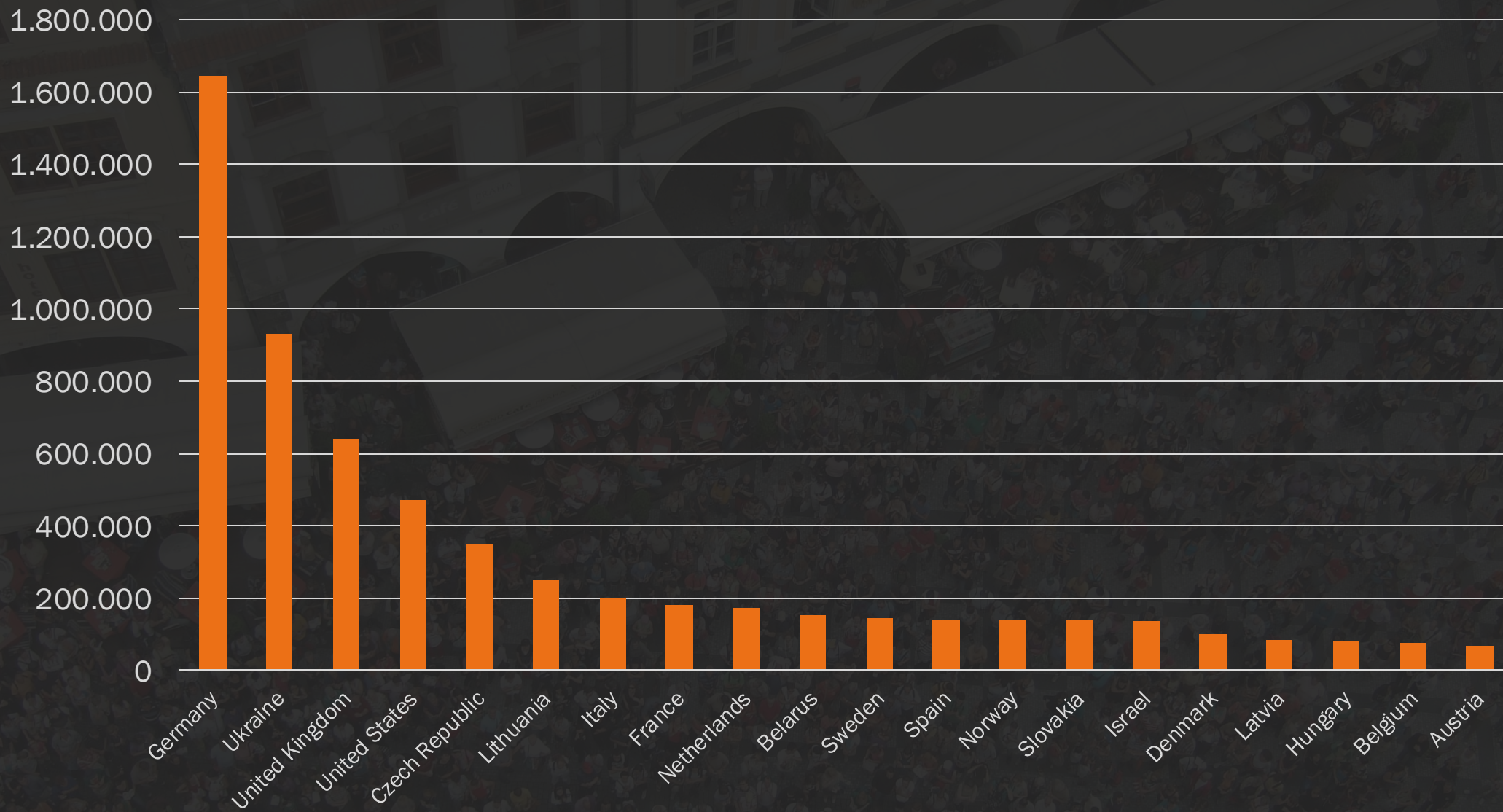


# 4. Wroclaw



Most popular cities among foreign tourists:





■ Origin country of tourists in Poland [2023]

# Migration in Poland

## ECONOMIC/LABOR MIGRATION



## WAR REFUGEES



# Legal Basis for Pursuing Compensation Claims in Poland

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## ARTICLE 415. CIVIL CODE

A person who has inflicted damage to another person by his own fault shall be obliged to redress it.

## ARTICLE 822. §4. CIVIL CODE

The person entitled to damages in relation to an accident comprised by the contract of civil liability insurance may pursue the claim directly from the insurer.



# Civil liability insurance



Third-party liability motor insurance is compulsory in Poland, with coverage attaching to the vehicle itself rather than the driver. As a general principle, the insurer bears liability for accidents caused by any driver operating an insured vehicle. However, in specific circumstances, the insurer may pursue recourse claims against the accident perpetrator to recover compensation paid.

Furthermore, Poland has established the Insurance Guarantee Fund, which manages claims against uninsured vehicle operators.

**Note:** In 2022, when the Russian full-scale invasion of Ukraine caused a large refugee movement, Polish insurers provided 30 days of free insurance for Ukrainian vehicles entering Poland without a Green Card

# Jurisdiction

Within the European Union, Poland is bound by the Brussels I Regulation.  
Outside the EU, the Polish Code of Civil Procedure applies

## Article 1099

### § 1.

The court takes a lack of domestic jurisdiction at any stage of a case into consideration ex officio. If lack of domestic jurisdiction is determined, the court rejects a complaint or petition, subject to Article 1104 § 2 or Article 1105 § 6.

### § 2.

Lack of domestic jurisdiction constitutes grounds for the nullity of proceedings.

## Article 1103

Cases adjudicated by trial fall under domestic jurisdiction if the defendant has his place of residence or usual stay, or a registered office in the Republic of Poland.



## Article 1103<sup>5</sup>

### § 1.

Cases against an insurer involving insurance relationship also fall under domestic jurisdiction if:

- 1) the plaintiff has his place of residence in the Republic of Poland, or
- 2) a case against the principal insurer falls under domestic jurisdiction, and the defendant is a joint insurer, or
- 3) an event which caused damage took place in the Republic of Poland and the case involves civil liability insurance, immovable property insurance or immovable and movable property insurance affected by the same event.

### § 2.

In cases as referred to in § 1, an insurer is treated as if he had a place of residence or registered office in the Republic of Poland if he has his branch or unit in the Republic of Poland and the case involves the operation of that branch or unit.

# Applicable Law

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OUTSIDE OF EUROPEAN UNION PROVISIONS, THE "PRIVATE INTERNATIONAL LAW ACT" APPLIES

## Art. 34.

### [Applicable Law for Liability Arising from Road Traffic Accidents]

The law applicable to non-contractual civil liability arising from road traffic accidents is determined by the Convention on the Law Applicable to Traffic Accidents, concluded in The Hague on May 4, 1971 (Journal of Laws of 2003, No. 63, item 585).



# Statute of limitations



## Article 442<sup>1</sup>

### § 1.

A claim for the redress of the damage inflicted by a delict shall be subject to limitation upon the lapse of three years from the day when the injured party learned about the damage and about the person liable to redress it or might have learned about it if he had exercised due diligence. However, such a time limit may not be longer than ten years from the day when the event causing the damage occurred.

### § 2.

Where the damage resulted from a crime or an offence, a claim for the redress of the damage shall be subject to limitation upon the lapse of twenty years from the day when the offence was committed regardless of when the injured party learned of the damage and of the person obliged to its redress.

### § 3.

In the case of inflicting injury to a person limitation may not end earlier than upon the lapse of three years from the day when the injured party has learned about the injury and the person obliged to redress it.

### § 4.

Limitation of a minor's claims for redress of the injury to a person may not end earlier than upon the lapse of two years from becoming of full age.

# Legal Proceedings for Road Traffic Accidents in Poland

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## CRIMINAL PROCEEDINGS

Possibility to obtain an award of partial damages from the liable offender

## CIVIL PROCEEDINGS

Possibility to pursue claims against both the at-fault party and the insurance carrier"



# Evidentiary Matters

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Expert witnesses – medical experts appointed by the court (private expert opinion may be admitted as supplementary evidence or may serve as grounds for requesting a secondary medical expert report).

Court-appointed medical experts are required to conduct comprehensive physical examinations of the claimant (in-person assessment).

Foreign documentation must be submitted with certified translations.

# No Predetermined Compensation Amounts

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No statutory caps – 'Sky is the limit?'

Established jurisprudence of the Supreme Court:  
'Non-pecuniary damages may not serve as a  
source of unjustified enrichment!'



# Strategic Jurisdiction Shopping: When Polish Courts Fall Short

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- Polish law fails to allocate appropriate attorney's fees for settlements
- Court-awarded reimbursements for legal fees are inadequate
- Attorneys fees directly correlates with claim value - smaller claims receive disproportionately lower fee awards
- Law firms find it economically unfeasible to handle small-value cases