

Country Report: Poland



2022
Update

Acknowledgements & Methodology

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This report draws on information provided by the Office for Foreigners, the Border Guard, the Refugee Board, Voivods, and NGOs in writing and in oral interviews.

The information in this report is up-to-date as of 31 December 2022, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is coordinated by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information on asylum practice in 23 countries. This includes 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, SI) and 4 non-EU countries (Serbia, Switzerland, Turkey, United Kingdom) which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. The database also seeks to promote the implementation and transposition of EU asylum legislation reflecting the highest possible standards of protection in line with international refugee and human rights law and based on best practice.



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Glossary & List of Abbreviations

AMIF	Asylum, Migration and Integration Fund
ASQAEM	Asylum Systems Quality Assurance and Evaluation Mechanism
BIPs	Beneficiaries of international protection
CAR	Central African Republic
CJEU	Court of Justice of the European Union
EASO	European Asylum Support Office
ECtHR	European Court of Human Rights
EMN	European Migration Network
ERF	European Refugee Fund
GG	Grupa Granica
HFHR	Helsinki Foundation for Human Rights
IFA	Internal Flight Alternative
IPI	Individual Integration Programme
SIP	Legal Intervention Association Stowarzyszenie Interwencji Prawnej
NFZ	National Health Fund
OPS	Social Welfare Centre Ośrodek Pomocy Społecznej
PCPR	Powiat Family Support Centres Powiatowe Centra Pomocy Rodzinie
PTSD	Post-Traumatic Stress Disorder
SG	Border Guard / Straż Graniczna
SGBV	Sexual and gender-based violence
UNHCR	United Nations High Commissioner for Refugees

Statistics

Overview of statistical practice

Statistics are provided on the website migracje.gov.pl. The statistics presented below were provided upon request by the Office for Foreigners.

Applicants and granting of protection status at first instance: 2022

	Applicants in year	Pending at end of year	Refugee status	Subsidiary protection	Humanitarian protection	Rejection	Refugee rate	Sub. Prot. rate	Hum prot. rate ¹	Rejection rate
Total	9,933	2,829	372	4,594	28	1,602	5.6%	69.6%	0.4%	24.3%

Breakdown by countries of origin of the total numbers

Belarus	3,132	638	174	3,474	0	29	4.7%	94.5%	0%	0.8%
Russian Federation	2,227	765	41	73	9	630	5.4%	9.7%	1.2%	83.7%
Ukraine	1,778	372	3	962	11	33	0.3%	95.3%	1.1%	3.2%
Iraq	639	77	1	10	0	430	0.2%	2.3%	0%	97.5%
Afghanistan	362	218	71	0	0	2	97.3%	0%	0%	2.7%
Egypt	176	127	1	0	0	27	3.5%	0%	0%	96.4%
Tajikistan	173	82	2	38	0	124	1.2%	23.2%	0%	75.6%
Armenia	125	15	0	1	0	27	0%	3.6%	0%	96.5%
Syria	108	28	9	7	0	4	45%	35%	0%	20%
Iran	99	82	5	0	0	13	27.8%	0%	0%	72.2%

Source: Office for Foreigners.

¹ Humanitarian protection is granted in return proceedings by the Border Guard – is not a part of international protection proceedings before the Office for Foreigners. Therefore, the rate should not be summed to that regarding international protection decisions and should not be included in the overall recognition rate.

Gender/age breakdown of the total number of applicants: 2022

	Number	Percentage
Total number of applicants	9,933	100%
Men	6,044	60%
Women	3,889	39%
Children	2,695	27%
Unaccompanied children	217	2%

Source: Office for Foreigners.

Comparison between first instance and appeal decision rates: 2022

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of persons covered by decisions	6,568	100%	1455	100%
Positive decisions (no of persons)	4,966	75,7%	6	0,4%
• <i>Refugee status</i>	372	5,6%	6	0,4%
• <i>Subsidiary protection</i>	4,594	69,6%	0	0%
Negative decisions (no of persons)	1,602	24,3%	1,449	99.6%

Source: Office for Foreigners.

Overview of the legal framework

Main legislative acts relevant to asylum procedures, reception conditions, detention and content of protection

Title (EN)	Original Title (PL)	Abbreviation	Web Link
Law of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland (Journal of Laws 2012 pos. 680)	Ustawa z dnia 13 czerwca 2003 r. o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej (Dz.U. 2012 poz. 680)	Law on Protection	https://bit.ly/3sITJC2 (PL) -uniform text of the act, as of 2021
Law of 12 December 2013 on foreigners (Journal of Laws 2013 pos. 1650)	Ustawa z dnia 12 grudnia 2013 r. o cudzoziemcach (Dz.U. 2013 poz. 1650)	Law on Foreigners	https://bit.ly/3JaDFJY (PL) - uniform text of the Act after amendments from 2021
Law of 14 June 1960 Code of administrative procedure (Journal of Laws 2013 pos. 267)	Ustawa z dnia 14 czerwca 1960 r. Kodeks Postępowania Administracyjnego (Dz.U. 2013 poz. 267)	Code of Administrative Procedure	https://bit.ly/3oauUKK (PL)
Law of 12 March 2022 on assistance to Ukrainian nationals with regard to the arm conflict on the territory of this country	Ustawa z 12 marca 2022 r. o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa	Law on assistance to Ukrainian nationals /Special Law	https://bit.ly/3JC15si The law is applicable as of 24 February 2022

Main implementing decrees and administrative guidelines and regulations relevant to asylum procedures, reception conditions, detention and content of protection

Title (EN)	Original Title (PL)	Abbreviation	Web Link
Ordinance of the Minister of Interior and Administration of 19 February 2016 on the amount of assistance for foreigners seeking international protection (Journal of Laws 2016 pos. 311)	Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 19 lutego 2016 r. w sprawie wysokości pomocy dla cudzoziemców ubiegających się o udzielenie ochrony międzynarodowej (Dz.U. 2016 poz.311)	Regulation on Amount of Assistance for Asylum Seekers	https://bit.ly/3UIVarZ (PL)
Ordinance of the Ministry of Interior of 23 October 2015 on the rules of stay in the centre for foreigners (Journal of Laws 2015 pos.1828)	Rozporządzenie Ministra Spraw Wewnętrznych z dnia 23 października 2015 r. w sprawie regulaminu pobytu w ośrodku dla cudzoziemców (Dz. U. 2015 poz. 1828)	Regulation on Rules of stay in the Centre for Asylum Seekers	https://bit.ly/3mF6t7T (PL) amended thrice in 2021

Ordinance of the Ministry of Interior and Administration of 24 April 2015 on the guarded centres and detention centres for foreigners (Journal of Laws 2015 pos. 596)	Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 24 kwietnia 2015 r. w sprawie strzeżonych ośrodków i aresztów dla cudzoziemców (Dz.U. 2015 poz. 596)	Regulation on Detention Centres	https://bit.ly/43BjDU5 (PL) amended in 2021 by: https://bit.ly/3aaJI2E
Ordinance of the Ministry of Interior of 4 November 2015 on the form of application for international protection	Rozporządzenie Ministra Spraw Wewnętrznych z dnia 4 listopada 2015 r. w sprawie wzoru formularza wniosku o udzielenie ochrony międzynarodowej	Regulation on the application form	https://bit.ly/43E05hJ (PL)
Ordinance of the Ministry of Interior and Administration of 13 March 2020 on temporary suspension of limitation of cross-border movement on some border crossing points	Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 13 marca 2020 r. w sprawie czasowego zawieszenia lub ograniczenia ruchu granicznego na określonych przejściach granicznych	Regulation on the cross-border movement	https://bit.ly/3GEjUsC (PL) amended in 2021 by The Ordinance of 20 August 2021: https://bit.ly/3gwTtKX (PL)

Overview of main changes since the previous report update

The report was previously updated in **May 2022**.

Asylum procedure

- ❖ **Access to asylum:** In 2022, access to the asylum procedure at the Belarusian border remained the main challenge in the Polish asylum system. According to the Border Guards, in 2022, 12,155 persons were 'prevented from irregular crossings of the border'. Additionally, the Border Guard issued orders to leave Poland to 2,488 persons. On the Belarusian border, decisions refusing entry were issued towards 2,622 persons in 2022, 1,889 of which were issued at the Terespol border crossing. There was an increase in the number of fatalities and persons injured in the forests close to the border area. Organisations also reported an escalation of violence from officers of the Border Guard.
- ❖ **Jurisprudence on access to the territory and push backs:** There were several judgements issued regarding the situation at the Belarusian border both at the international and domestic levels. According to an HFHR information note from December 2022 on legal developments regarding pushbacks, between October 2021 and December 2022, the ECtHR granted nearly 100 interim measures under Rule 39 of the Court's Rules of Procedure, ordering the Polish authorities to refrain from returning the complaining applicants to Belarus, considering that this could constitute a violation of Article 3 of the European Convention on Human Rights. Most of the interim measures issued have already been lifted due to the initiation of lawful procedures regarding foreigners in the territory of Poland (proceedings on return or on granting international protection in the territory of the Republic of Poland). As a result, the risk of these individuals being immediately sent back to Belarus was no longer a concern. Individual complaints were filed in some of these cases, and several of them have already been communicated to the Polish government.²
- ❖ **Key asylum statistics:** 9,933 people, among whom 2,695 children, presented asylum applications in Poland in 2022. In Terespol, the Border Guards received applications for international protection from 1,029 persons. In the Podlaskie Border Guard Unit (which covered the restricted access border area), another 1,070 applications were registered. The main countries of origin of the applicants were Belarus, the Russian Federation, Ukraine, Iraq and Afghanistan. The overall recognition rate at first instance stood at 75.5%.

Reception conditions

- ❖ **Access to reception conditions:** The humanitarian crisis at the Polish-Belarusian border that started in 2021 and continued in 2022 left many prospective asylum seekers without any or proper access to material reception conditions, including medical assistance. Moreover, the prolongation of the provision of the material reception conditions beyond the regular time-frames due to the COVID-19 pandemic lasted only until 15 May 2022. Since 24 February 2022, it is possible to grant a financial allowance for asylum seekers living outside reception centres without their prior registration in one of the first-reception centres.
- ❖ **Reception conditions preceding Dublin transfers:** The rules concerning access to assistance before and during the Dublin transfer have been changed in April 2023. Now, the decision is made by the Chief Commander of the Border Guard (instead of the Head of the Office for Foreigners) and the motion must be submitted within 21 days (instead of 30).

² R.A. and others v. Poland, complaint no. 42120/21, communicated on 27.09.2021; K.A. v. Poland and M.A. and others v. Poland, complaint nos. 52405/21 and 53402/21, communicated on 1.06.2022; F.A. and S.H. v. Poland, complaint no. 54862/21, communicated on 20.06.2022.

- ❖ **Housing:** Two reception centres that were made available in 2021 to the Border Guard for detention purposes have been returned under the management of the Office for Foreigners in mid-2022. After June 2022, they went back to serve as reception centres for asylum seekers.
- ❖ **Financial allowances:** Despite the plans to increase financial allowances for asylum seekers and the civil society pleadings that the allowances are grossly insufficient, in 2022, only one of them was slightly raised, i.e. a financial equivalent for meals in the reception centres (PLN 11 raised from PLN 9 per day).
- ❖ **Information provision:** In 2022, new-coming asylum seekers could again participate in courses on basic information about Poland and the asylum procedure. Before, such courses were terminated due to the COVID-19 pandemic.
- ❖ **Education:** In March 2022, the number of maximum foreign students in a preparatory class was raised from 15 to 25 minors and the minimum number of hours for learning the Polish language during a week was increased from 3 to 6 hours.

Detention of asylum seekers

- ❖ **Detention of vulnerable applicants:** Children with families are still detained in Poland on a regular basis and the best interest of a child principle is commonly not taken into account in court proceedings; no identification system for victims of violence is in place, and victims of torture can be placed in detention centres.
- ❖ **Conditions in detention centres:** Asylum seekers in detention centres have limited access to psychologists working for NGOs or to private medical specialists. Instead, psychological services are offered in detention centres by specialists hired by the Border Guard, which often discourages persons in need from requesting support due to lack of trust.

Content of international protection

- ❖ **Inclusion:** Concerning the situation of international protection beneficiaries, the problems identified in previous reports remained throughout 2022. In general, the integration of refugees has not been perceived as a holistic process by the government and because of that the refugees very often are doomed to poverty and cannot get out of a vicious circle of being dependent on social welfare.³ The findings of research on integration indicate that the case of Poland is characterized by a lack of an official long-term integration strategy, called for by experts in migration governance and even by the politicians themselves.⁴ Several legal acts deal with different aspects of integration policy (narrowed to those concerning the beneficiaries of international protection) yet to a varying degree and not specifically devoted to it.⁵
- ❖ **Residence permits:** The fees for residence permits (*karta pobytu*) and Polish travel documents for foreigners were significantly increased in 2022. The fee for a residence permit is now twice higher as in 2021 (PLN 100 instead of 50). The fee for a Polish travel document for foreigners was raised 3,5 times (PLN 350 instead of 100). Moreover, in response to the war in Ukraine, all the time limits in the cases already considered by Voivodes and the Office for Foreigners (including concerning permanent residence permits and EU long-term residence permits) were suspended,

³ RESPOND Poland Policy Brief, Adult Refugees' Integration in Poland, 2021, <https://bit.ly/3vrD0QZ>.

⁴ K. Sobczak-Szelc, M. Pachocka, K. Pędzwiatr, J. Szałańska, M. Szulecka, *From Reception to Integration of Asylum Seekers and Refugees in Poland*, 2023, available at: <http://bit.ly/3KiKMCy>, 229.

⁵ K. Sobczak-Szelc, M. Pachocka, K. Pędzwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', *Multilevel Governance of Mass Migration in Europe and Beyond Project* (#770564, Horizon2020), available at: <http://bit.ly/3bfjTxL>, 10.

first, until the end of the year, and next, until 24 August 2023. In new cases, the time limits did not start to run.

Temporary protection

Temporary protection procedure

- ❖ **Legal framework:** There are two temporary protection mechanisms in Poland: a general one, arising from the Act on Protection of 2003, and a special one, based on the Special Law adopted in March 2022. Both apply to persons fleeing the war in Ukraine who are eligible for temporary protection under the EU law, albeit they apply to different groups of beneficiaries. They also offer different rights to their beneficiaries.
- ❖ **Qualification:** Special temporary protection is available only to Ukrainian nationals, who came to Poland on or after 24 February 2022 due to the war in Ukraine, and only some of their non-Ukrainian family members. General temporary protection applies to other persons deemed eligible for temporary protection under EU law. Poland did not extend the personal scope of temporary protection offered to persons displaced from Ukraine by the EU law. However, some special rules have been adopted extending the legal stay in Poland of some Ukrainian nationals who were not eligible for temporary protection. Other third-country nationals fleeing the war in Ukraine were not offered any state assistance beyond a right to a 15-day humanitarian entry to Poland; some were detained in Poland. In 2022, there were over 1.5 million special temporary protection beneficiaries. 1,301 persons enjoyed general temporary protection in 2022, with 1,224 beneficiaries as of 31 December 2022.
- ❖ **Admission:** While initially the Polish borders were opened for persons displaced from Ukraine, soon the Polish Border Guard started to issue decisions on a refusal of entry at the Polish-Ukrainian border. In the period of March-December 2022, the Border Guard issued in total 14,063 decisions on a refusal of entry at this border (including 11,745 Ukrainian nationals). Persons seeking protection in Poland due to the war in Ukraine, including recognized temporary protection beneficiaries, were amongst those who had been denied entry.
- ❖ **Registration:** Ukrainian nationals and some members of their families can register to obtain a special personal identification number 'PESEL UKR'. Obtaining this number is not mandatory, however, access to some rights is conditioned upon acquiring it. In 2022, approx. 1,502,620 persons were given 'PESEL UKR' in Poland. Moreover, 1,301 other third-country nationals have been registered as temporary protection beneficiaries under the Act on Protection.

Content of temporary protection

- ❖ **Access to rights:** Temporary protection beneficiaries have access to most of the rights provided for in the EU law, however, this access differs depending on being recognized as a special or general temporary protection beneficiary. Thus, Ukrainian nationals' access to rights differs from the access given to international protection beneficiaries and permanent residence holders from Ukraine.
- ❖ **Residence permits:** Until July 2022, Ukrainian nationals and some of their family members who were recognized as temporary protection beneficiaries in Poland were not given any residence permit. In July 2022, the electronic document 'Diia.pl' was introduced. However, some persons, in particular children, struggled with accessing the 'Diia.pl'. As of 31 December 2022, only approx. 288,850 temporary protection beneficiaries had access to this document. Moreover, at the end of the year, 1,224 third-country nationals were having a valid certificate confirming that they were enjoying general temporary protection in Poland.

- ❖ **Family reunification:** No family reunification procedure for temporary protection beneficiaries is in place, neither in law nor in practice.
- ❖ **Movement and mobility:** The movement and mobility of temporary protection beneficiaries were hampered due to the lack of residence permits, the rule that temporary protection is withdrawn upon a 30-day absence in Poland, and the unfavourable practices of the Polish Border Guard.
- ❖ **Housing:** Most of the persons displaced from Ukraine were living privately in Poland. There is a special financial allowance for persons who offered their apartments and houses to Ukrainian nationals free-of-charge. Since March 2023, those Ukrainian nationals who are accommodated by the Polish authorities are allowed to live there cost-free for 120 days, afterwards, they should co-participate in the costs of their living. International protection beneficiaries and permanent residence holders from Ukraine can live in the reception centres for asylum seekers, but only 6 persons opted for this possibility in 2022.
- ❖ **Access to the labour market:** Temporary protection beneficiaries have access to the labour market – upon (Ukrainian nationals and some of their family members) or without (other beneficiaries) notification.
- ❖ **Access to education:** Ukrainian children were allowed to continue learning online within the Ukrainian education system. Thus, only some of them entered Polish schools in 2022. Despite this, the Polish education system has been overburdened. Some special rules were adopted to facilitate coping with the unprecedented challenge of accepting thousands of new Ukrainian pupils to Polish schools.

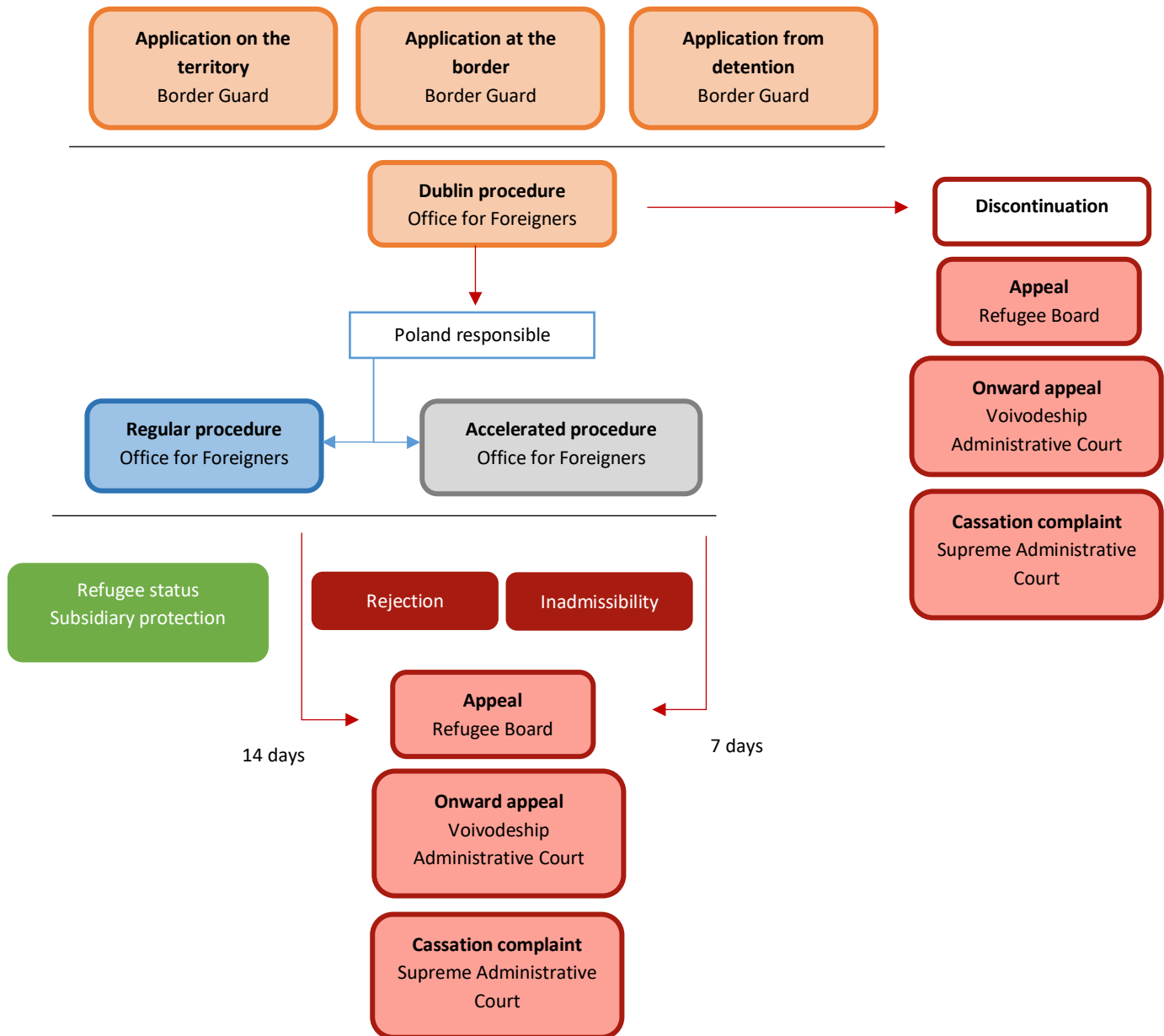


International Protection

Asylum Procedure

A. General

1. Flow chart



2. Types of procedures

Indicators: Types of Procedures

Which types of procedures exist in your country?

- | | | |
|---|---|--|
| ❖ Regular procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ▪ Prioritised examination: ⁶ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ▪ Fast-track processing: ⁷ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Dublin procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Admissibility procedure: | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ Border procedure: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ Accelerated procedure: ⁸ | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Are any of the procedures that are foreseen in the law, not being applied in practice? ☐ Yes ☒ No

3. List of authorities that intervene in each stage of the procedure

Stage of the procedure	Competent authority (EN)	Competent authority (PL)
Application at the border	Border Guard	Straż Graniczna (SG)
Application on the territory	Border Guard	Straż Graniczna (SG)
Dublin (responsibility assessment)	Head of the Office for Foreigners	Szef Urzędu do Spraw Cudzoziemców
Refugee status determination	Head of the Office for Foreigners	Szef Urzędu do Spraw Cudzoziemców
First appeal	Refugee Board	Rada do Spraw Uchodźców
Onward appeal	❖ Voivodeship Administrative Court in Warsaw ❖ Supreme Administrative Court	❖ Wojewódzki Sąd Administracyjny w Warszawie ❖ Naczelny Sąd Administracyjny
Subsequent application (admissibility)	Head of the Office for Foreigners	Szef Urzędu do Spraw Cudzoziemców

4. Number of staff and nature of the determining authority

Name in English	Number of staff	Ministry responsible	Is there any political interference possible by the responsible Minister with the decision making in individual cases by the determining authority?
Office for Foreigners	50 caseworkers	Ministry of Interior and Administration	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

The Office for Foreigners (OFF) is the authority responsible for examining applications for international protection and is competent to take decisions at first instance. In 2022, there were approximately 50 caseworkers (in comparison to 29 in 2021) who were responsible for conducting interviews and examining applications for international protection.

Caseworkers are trained in all aspects of the asylum procedure, in particular, drafting decisions and conducting interviews. The training is provided internally as well as through the European Union Agency for Asylum (EUAA). In addition, training for staff members conducted by UNHCR is envisaged, although

⁶ For applications likely to be well-founded or made by vulnerable applicants.

⁷ Accelerating the processing of specific caseloads as part of the regular procedure, without reducing procedural guarantees.

⁸ Entailing lower procedural safeguards, whether labelled as “accelerated procedure” in national law or not.

there is no further information regarding the topics. Specific training on interviewing vulnerable groups is provided by the psychologists and EUAA to staff members of the Department on Proceedings for International Protection immediately upon recruitment. Although there is no specialised unit for vulnerable groups within the OFF, only qualified and experienced staff members are allowed to decide on applications from persons with special needs. In 2020, the number of such staff members was 21.⁹ In 2022, this information has not been provided upon request.

As regards the internal structure of the OFF, the Department on Proceedings in International Protection of the OFF is divided into three units handling regular procedures, while one unit is responsible for accelerated and inadmissibility procedures.

The Head of the Office for Foreigners is appointed by the Prime Minister, upon the request of the Ministry of Interior and Administration, among persons applying via open call.¹⁰ There is no regular monitoring of the decisions, but in practice, caseworkers fill in a special questionnaire which is made available to the Heads of Units and Departments of the OFF to review their activities. There is no quality control mechanism after a decision has been issued by the OFF, however; monitoring can be conducted at any time by the responsible Ministry or the Supreme Chamber of Control (*Najwyższa Izba Kontroli*). According to the Office for Foreigners, the Ministry cannot be involved in any way in the decision-making process e.g. by issuing binding instructions or by intervening in specific individual cases. In high-profile cases, an intervention is probable according to NGO lawyers working on specific cases.

It should be further noted that another activity covered by the OFF is reception facilities for asylum seekers and beneficiaries of international protection. The OFF is thus responsible for the management of all the reception centres. While the OFF has delegated this responsibility to civil society organisations and private contractors, it monitors the situation in the centres through the Office's employees working in the centre and through inspections that are conducted twice a year (see [Housing](#)). Asylum seekers can complain to the OFF about the situation in the centres.

5. Short overview of the asylum procedure

An asylum application may be lodged either on the territory (also or from a detention centre) or at the border. In all cases, a Border Guard (SG) officer is responsible for accepting and transferring the request to the Head of the Office for Foreigners.

First instance: The main asylum authority is the Head of the Office for Foreigners, which falls under the Ministry of Interior and Administration. It is an administrative authority specialised in asylum and is responsible for examining, granting, refusing and withdrawing protection, in Poland, as well as for Dublin procedures (see [Number of staff and Nature of the Determining Authority](#)). A Dublin procedure is applied whenever there is evidence or any sign that another State may be responsible for examining the claim.¹¹ However, Poland is principally a “receiving” country, rather than a country which requests and carries out transfers to other countries.

In Poland a single procedure applies and includes the examination of conditions to grant refugee status and subsidiary protection. A regular asylum procedure, therefore, has four possible outcomes:

- ❖ The applicant is granted refugee status;
- ❖ The applicant is granted subsidiary protection;
- ❖ The application is rejected;
- ❖ The proceedings are discontinued e.g. when the applicant is no longer on the territory of Poland.

⁹ Information provided by the Office for Foreigners, 26 January 2021.

¹⁰ Article 17 of the Law on Foreigners.

¹¹ The Dublin procedure should be applied in every case: Article 36(1) Law on Protection.

The negative decision is not automatically accompanied by a return decision. In the two last cases, the determining authority informs the Border Guard about either one of these circumstances, subsequently allowing for return proceedings to be initiated.

Admissibility procedures are most often applied in case of a subsequent application, considered to be based on the same circumstances. There is no border procedure.

Appeal: The Refugee Board is a second-instance administrative body competent to handle appeals against first-instance negative decisions in all types of procedures, including Dublin. Appeals before the Refugee Board have an automatic suspensive effect and must be lodged within 14 calendar days after the decision has been notified to the applicant; the only exemption to this is the appeal in the [accelerated procedure](#) which must be submitted in 7 days. The procedure is not adversarial and there is no hearing.

The Refugee Board may then:

1. Annul the first instance decision, in case it considers that essential information is lacking to decide on the appeal and further investigation by the Office for Foreigners is needed;
2. Overturn the Office for Foreigners' negative decision i.e. grant refugee status or subsidiary protection; or
3. Confirm the decision of the Office for Foreigners, which is most often the case.

After the administrative appeal procedure before the Refugee Board, there is a possibility of an onward appeal before the Voivodeship Administrative Court in Warsaw. Only points of law can be litigated at this stage. This onward appeal does not have a suspensive effect on the Refugee Board's decision. Upon request of the applicant, the court may suspend a decision for the time of the court proceedings, if its enforcement would cause irreversible harm. The court procedure is adversarial.

The ruling of the Voivodeship Administrative Court in Warsaw can be appealed to the Supreme Administrative Court by lodging a cassation complaint, based exclusively on the legal conditions foreseen in the law. The Court may suspend execution of the decision for the time of the court proceedings upon request.

There is also a different national protection status called 'asylum'.¹² A foreigner can be granted 'asylum' in a separate procedure if it is necessary to provide them with protection, but only if it is in the interest of the state. Political aspects are, therefore, taken into account in this procedure. Throughout the years, the procedure has been very rarely applied (8 positive cases in 2022, 3 positive cases in 2021, and 4 positive cases in 2020).

B. Access to the procedure and registration

1. Access to the territory and push backs

Indicators: Access to the Territory

1. Are there any reports (NGO reports, media, testimonies, etc.) of people refused entry at the border and returned without examination of their protection needs? ☒ Yes ☐ No
2. Is there a border monitoring in place? ☒ Yes ☐ No
 - ❖ If so, who is responsible for border monitoring? ☐ National authorities ☒ NGOs ☐ Other
 - ❖ If so, how often is border monitoring carried out? ☒ Regularly¹³ ☐ Rarely ☐ Never

¹² Article 90 and next of the Law on Protection.

¹³ This refers to once per month.

Polish-Belarus border: Since mid-2021 the number of asylum seekers and migrants seeking to enter Poland from Belarus increased significantly. Belarus facilitated irregular migration to the EU in response to the EU sanctions,¹⁴ while Poland refused to provide access to asylum procedures to those in need.

As a result, the situation in the border zone has quickly become a humanitarian crisis. Besides leaving people without any assistance in the border area (without access to shelter, food, and drinking water), Border Guards also carried out pushbacks. According to the report of the Protecting Rights at Borders initiative, some migrants have been pushed back numerous times, irrespective of their age or vulnerability. Pushbacks on the border with Belarus took place also at the official border crossing points.¹⁵

According to the report of Grupa Granica (GG) (a social movement of activists and NGOs voluntarily assisting asylum seekers and migrants at the border), since the beginning of the crisis at the border in August 2021 until 17 February 2023 at least 37 persons were found dead on both sides of the border.¹⁶ The main reasons for deaths were hypothermia and drowning. Organisations and humanitarian and medical aid workers reported cases of frostbitten limbs (leading in extreme cases even to amputation), food poisoning resulting from lack of access to drinking water, hypothermia, fractures and other injuries suffered by migrants trying to cross the border from Belarus to Poland.¹⁷

The real number of deaths may be much higher - the persisting restrictions on access to the border zone made it difficult to investigate the cases properly. According to HFHR, there are many indications that the death proceedings are not diligently conducted by the Polish authorities.¹⁸ From the requests for access to public information sent by the HFHR to law enforcement authorities, it is known that most proceedings are pending in one prosecutor's office under a common file number - even though deaths were often separated by a large time interval and significant geographic distance.¹⁹

Organisations also reported an escalation of violence in 2022 at the border zone. Polish officers used intimidation, threats to use firearms, use of gas, destruction of smartphones and sim cards, and deliberate deception. The eventual pushbacks to the Belarusian border suggest that the migrants suffered more violence from Belarusian officers and smugglers.²⁰

On 1 July 2022, the construction of a physical dam on the Polish-Belarusian border was officially completed. The dam is approximately 187 km long and equipped with special throughways for animals and electronic protection (perimetry).²¹

Also on 1 July 2022, the Ordinance of the Ministry of the Interior and Administration on a temporary ban on staying in 183 localities in the border area of Podlaskie and Lubelskie voivodships, which was in force since 1 December 2021, ceased to apply. At the same time, under another ordinance, the Podlasie voivode prohibited the stay within 200 meters from the state border line justifying it by ongoing installation of electronic devices at the border and therefore security reasons. The latter ban on access was in force until 31 December 2022.²² Changing the restricted area from around 3 km from the border to 200 m from

¹⁴ Fundamental Rights Agency, Migration: Key fundamental rights concern, Quarterly Bulletin 3, available (EN) at: <https://bit.ly/3uEvu4G>.

¹⁵ Protecting rights at borders, Beaten, punished and pushed back, January 2023, available at: <https://bit.ly/3kYwJc9>, page 13.

¹⁶ Grupa Granica, Periodic report on the situation at the Polish-Belarusian border, December 2022- January 2023, page 3, available (EN) at: <https://bit.ly/3UGpqUd>.

¹⁷ Ibidem.

¹⁸ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, page 3, available (EN) at <https://bit.ly/40GcZt3>.

¹⁹ Ibidem.

²⁰ Grupa Granica, Periodic report on the situation at the Polish-Belarusian border, December 2022- January 2023, page 10, available (EN) at: <https://bit.ly/3UGpqUd>.

²¹ The Ministry of the Interior and Administration, Communitation from 30 June 2022, *Zakończenie budowy fizycznej części zapory na granicy polsko-białoruskiej*, available (PL) at: <https://bit.ly/40czPs8>.

²² Podlaski Voivode in Białystok, Communication from 22 November 2022, *Wojewoda podlaski przedłużył zakaz przebywania na obszarze 200 m od linii granicy z Białorusią*, available (PL) at : <https://bit.ly/3GOWWqG>.

the border allowed for more efficiency in assisting those in need, but NGOs still reported problems in accessing migrants, because pushbacks were happening so quickly.²³

The construction of the fence was full of controversy - starting from the huge expenses, a lack of transparency, ecological impact and ending with efficiency. According to the Grupa Granica, the completion of the dam did not close the migration route or limited the number of migrants crossing the border but only made it more dangerous - migrants are forced to cross dense woods, rivers, marshes or wetlands, and as a result, more people are injured along the way and require medical assistance.²⁴ During autumn and winter, with the temperatures dropping below zero, the situation is even more dramatic.

International jurisprudence: On 30 June 2022, the European Court of Human Rights issued rulings in two cases concerning collective expulsions at the Poland-Belarus border, *A.B. and Others v. Poland*²⁵ and *A.I. and Others v. Poland*²⁶. Facts of both cases concern pushbacks at the official border crossing point in Terespol in 2017. In both cases, the ECtHR found a violation of Articles 3 and 13 of ECHR and Article 4 of Protocol no. 4 to the Convention, in the first of the two cases ECtHR also found a violation of Article 34 of ECHR.

According to HFHR information note on legal developments regarding pushbacks,²⁷ between October 2021 and December 2022, the ECtHR granted nearly 100 interim measures under Rule 39 of the Court's Rules of Procedure, ordering the Polish authorities to refrain from returning the applicants to Belarus, considering that this could constitute a violation of Article 3 of the European Convention on Human Rights. Most of the interim measures issued have already been lifted due to the initiation of lawful procedures regarding foreigners in the territory of Poland (proceedings on return or to grant international protection in the territory of the Republic of Poland). As a result, the risk of these individuals being sent back to Belarus was no longer a concern. Individual complaints were filed in some of these cases, and several of them have already been communicated to the Polish government.²⁸

Domestic jurisprudence: Two legal amendments introduced in response to the crisis at the Belarusian border in 2021 have been questioned as a result of litigation before domestic courts: Ordinance of the Minister of Internal Affairs and Administration of 20 August 2021,²⁹ authorizing the Border Guard to turn back foreigners to the border line solely based on a verbal instruction and the Law on Foreigners as amended in October 2021 (specifically Article 303b of the Law on Foreigners)³⁰ which allowed for issuing immediately enforceable 'orders to leave the Republic of Poland' with regards to foreigners apprehended after the irregular border crossing.³¹

It is important to note that according to HFHR, it is unclear on what basis the Border Guard decides which procedure is applied in a given case: whether the person falls under the regime of the Ordinance

²³ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, page 3, available (EN) at: <https://bit.ly/3oaqWBQ>.

²⁴ Grupa Granica, Periodic report on the situation at the Polish-Belarusian border, December 2022- January 2023, available (EN) at: <https://bit.ly/3UGpqUd>, page 4.

²⁵ ECtHR, judgement of 30 June 2022, case of *A.B and others v. Poland* (application no. 42907/17), available at: <https://bit.ly/41AmLO3>.

²⁶ ECtHR, judgement of 30 June 2022, case of *A.I. and others v. Poland* (application no. 39028/17), available at: <https://bit.ly/3MTYMPj>.

²⁷ HFHR, Legal brief on judgements in cases involving expedited returns of migrants to Belarus, December 2022, available (EN) at: <https://bit.ly/3L2vWAz>.

²⁸ *R.A. and others v. Poland*, complaint no. 42120/21, communicated on 27.09.2021; *K.A. v. Poland and M.A. and others v. Poland*, complaint nos. 52405/21 and 53402/21, communicated on 1.06.2022; *F.A. and S.H. v. Poland*, complaint no. 54862/21, communicated on 20.06.2022.

²⁹ Ordinance of the Minister of Internal Affairs and Administration of 20 August 2021 amending the Ordinance on Temporary Suspension or Restriction of Border Traffic at Certain Border Crossings (Journal of Laws 2021, item. 1536)

³⁰ Article 303b in conjunction with Article 303(1)9a of the Law on Foreigners, introduced by the Law of 14 October 2021 amending the Law on Foreigners and other Acts of Law (Journal of Laws 2021, item. 1918).

³¹ HFHR, Legal brief on judgements in cases involving expedited returns of migrants to Belarus, December 2022, page 1, footnote 1, available (EN) at : <https://bit.ly/3L2vWAz>.

(Regulation) or the amended Law on Foreigners (Article 303b). However, according to the ECRE report, the Ordinance is most likely applied towards persons apprehended subsequently.³²

According to HFHR, as of December 2022, 10 domestic judgments have been delivered confirming that the way of returning migrants to Belarus by the Polish Border Guard used in most cases was unlawful.

In four of its judgments,³³ The Voivodeship Administrative Court in Warsaw, revoked orders to leave Poland issued by the Border Guard Commander based on the amendments to the Law on Foreigners. In all four cases, the foreigners were intercepted shortly after crossing the border from Belarus. The court assessed that because of improperly collected evidence, it was impossible to determine whether the foreigners expressed a wish to apply for international protection in Poland. The court pointed out that only properly conducted proceedings can guarantee compliance with the principle of non-refoulement and obligations under the UN Refugee Convention, the EU asylum acquis, and the European Convention on Human Rights.

In another three cases,³⁴ the Provincial Administrative Court in Bialystok held that the Border Guard's action of escorting foreigners to the border with Belarus under the provisions of the Ordinance of the Minister of Internal Affairs and Administration was ineffective. As the Court pointed out, after the Border Guard officers had found out about the irregular crossing of the Polish border (which is also the external border of the EU), they should have - depending on the situation - either initiated proceedings to oblige the applicant to return or allowed the applicants to formally apply for international protection as soon as possible. At the same time, the Court, in its judgments, held that the Ordinance was issued in excess of statutory authority and, as such, should not be applied. This is because the Minister can only restrict or suspend traffic at border crossings but does not have the authority to regulate the situation of people who have crossed the borders outside the territorial scope of a border crossing.

In another judgment,³⁵ delivered as a result of a complaint filed by the Polish Ombudsman, the Voivodeship Administrative Court in Bialystok overturned the appealed decision to leave the Republic of Poland, which resulted in the return of an unaccompanied minor of Syrian citizenship from Poland to Belarus. According to the Court, it did not appear from the apprehension protocol of the minor foreigner and the accompanying foreign adult that they were informed of the possibility of applying for international protection, as would be required by the principle of non-refoulement. There was also no sign in the case files that the foreigners were heard before being returned to Belarus. In the Court's view, the case was not properly investigated, and the appropriate procedures related to the appointment of a guardian and other guarantees enjoyed by unaccompanied minors were not applied (see also the section on [Legal representation of unaccompanied minors](#)). The Court found that the case involved a collective expulsion in violation of Article 4 of Protocol 4 of the European Convention on Human Rights.

Official statistics: According to the Border Guards, in 2022, 12,155 persons were 'prevented from irregular crossings of the border'. This number includes persons intercepted at the border, those who managed to avoid interception (e.g., they run away from Polish BG officers to Belarus) and persons who were returned to Belarus in accordance with the amended Ordinance in force since August 2021.³⁶ In 2022, the Border Guard issued orders to leave Poland³⁷ to 2,488 persons. Only 6 persons appealed against these decisions, and none of them has been changed as a result of these appeals.³⁸ On the

³² ECRE, Seeking refuge in Poland. A fact-finding report on access to asylum and reception conditions for asylum seekers, February 2023, page 11, available (EN) at: <https://bit.ly/3KFLHgl>.

³³ Judgment of the Provincial Administrative Court in Warsaw no IV SA/Wa 420/22 of 26 April 2022, judgement no IV SA/Wa 471/22 of 27 April 2022, judgment no. IV SA/Wa 615/22 of 20 May 2022; judgment no IV SA/Wa 772/22 of 27 May 2022, see: HFHR, Legal brief on judgements in cases involving expedited returns of migrants to Belarus, December 2022, available (EN) at: <https://bit.ly/3L2vWAz>

³⁴ Judgments of the Provincial Administrative Court in Bialystok no II SA/Bk 492/22, 493/22 and 494/22, all from 15 September 2022, see: Ibidem.

³⁵ Judgement of the Voivodeship Administrative Court in Bialystok, no II SA/Bk 558/22 of 27 October 2022, see the judgement and comments from the Ombudsman: <https://bit.ly/40HvxsO>.

³⁶ Information provided by the Border Guard to HFHR, 9 February 2023, KG-OI-VIII.0180.184.2022.BK.

³⁷ Issued under the Article 303b of the Law on Foreigners.

³⁸ Information provided by the Border Guard to HFHR, 25 January 2023, KG-OI-VIII.0180.184.2022.BK.

Belarusian border, decisions refusing entry were issued towards 2622 persons in 2022 (1889 of which were issued at the Terespol border crossing). Only 11 appeals were lodged. In 2022, the overall number of international protection applicants was 9933. In Terespol, the Border Guards received applications for international protection from 1029 persons. In Podlaskie Border Guard Unit (which covered the restricted access border area), another 1070 applications were registered.³⁹

Border monitoring. Official border monitoring is based on an agreement between UNHCR for Central Europe and the Border Guards Headquarters of 21 October 2009. The monitoring visits are to be conducted by the NGO Halina Niec Legal Aid Center and should, according to UNHCR, take place once a month. The reports from these visits are not publicly available. UNHCR indicated that its monitoring activities are conducted at official border crossing points, Border Guard posts and registration centres along the Polish-Belarusian border.⁴⁰ In addition, in the past years, independent monitoring visits to the border crossing point in **Terespol** were held by the Commissioner for Human Rights,⁴¹ Amnesty International,⁴² and Human Rights Watch⁴³ as well as other local NGOs. Already before the current situation at the border with Belarus, they confirmed the existence of grave systemic irregularities in accepting applications for international protection at the border.⁴⁴

Readmission agreements. Poland signed the readmission agreements with the EU Member States (both bilateral and multilateral). There were no new agreements signed in 2022. In 2022, Poland readmitted 1209 foreigners, mainly to Lithuania (575), Georgia (218) and Iraq (114).⁴⁵

³⁹ The Border Guard Headquarter's letter to SIP, 2 February 2023, KG-OI-VIII.0180.13.2023.BK.

⁴⁰ ECRE, Seeking refuge in Poland. A fact-finding report on access to asylum and reception conditions for asylum seekers, February 2023, available (EN) at: <https://bit.ly/3KFLHgl>, page 16.

⁴¹ Commissioner for Human Rights paid three unannounced visits to Terespol border crossing on 11.08.2016, 15.05.2018 and 23.09.2019, the report of the last visit available (in Polish) at: <https://bit.ly/31nztK>.

⁴² Amnesty International Poland, *Tam i z powrotem: Brześć–Terespol*, 7 December 2016, available at: <https://bit.ly/2GMcEOW>.

⁴³ Human Rights Watch, Poland: *Asylum Seekers Blocked at the Border*, 1 March 2017, available at: <https://bit.ly/2GMcGq2>.

⁴⁴ Helsinki Foundation for Human Rights, *Access to asylum procedure at Poland's external borders, Current situation and challenges for the future*, Warsaw April 2019, available at: <https://bit.ly/40e9fyE>. See also: The Commissioner for Human Rights, Input of the Commissioner for Human Rights of the Republic of Poland for the Special Rapporteur's on the Human Rights of Migrants report on pushback practices and their impact on the human rights of migrants from 28 January 2021, available at: <https://bit.ly/3u2J3bx>

⁴⁵ The Border Guard Headquarters' letter to SIP, 28 February 2023, KG-OI-VIII.0180.12.2023.BK.

Poland – readmission agreements with EU Member States

I. Bilateral agreements

I.I. with EU Member States within the Schengen zone

No	Country	Date of signing	Date of entering into force
1.	Switzerland	19 September 2005	31 March 2006
2.	Spain	21 May 2002	23 June 2003
3.	Sweden	1 September 1998	9 April 1999
4.	Austria	10 June 2002	30 May 2005
5.	Czech Republic	10 May 1993	30 October 1993
6.	Greece	21 November 1994	5 May 1996
7.	Lithuania	13 July 1998	8 January 2000
8.	Latvia	29 March 2006	27 December 2007
9.	Slovakia	8 July 1993	12 November 1993
10.	Slovenia	28 August 1996	6 April 1998
11.	Hungary	25 November 1994	5 August 1995

I.II. with EU Member States outside the Schengen zone

No	Country	Date of signing	Date of entry into force
1.	Ireland	12 May 2001	22 June 2002
2.	Bulgaria	24 August 1993	4 February 1994
3.	Croatia	8 November 1994	27 May 1995
4.	Romania	24 July 1993	19 January 1994

II. Multilateral agreements

No	Country	Date of signing	Date of entry into force
1. ⁴⁶	Belgium	29 March 1991	1 April 1991
	The Netherlands		
	Germany		
	France		
	Italy		
	Luxemburg		
	Switzerland		
	Belgium		
	Denmark		
	Spain		
2. ⁴⁷	The Netherlands	16 October 1980	1 December 1980
	Norway		
	Sweden		
	Czech Republic		
	Germany		
	Finland		
	Greece		
	Portugal		
	Italy		
	Romania		
	Luxemburg	By Poland – 19 May 2004	For Poland – 1 June 2005
	United Kingdom		

⁴⁶ Agreement related to the readmission of persons in an irregular situation, Brussels, 29 March 1991.

⁴⁷ European agreement on transfer of responsibility for refugees, Strasbourg, 16 October 1980.

Legal access to the territory: There are no means (for example, in the form of corridors or resettlement or relocation) beyond [family reunification](#) to legally access the territory of Poland. In 2022, there were 155 applications for family reunification and a positive decision was issued in 102 cases.⁴⁸

2. Registration of the asylum application

Indicators: Registration

1. Are specific time limits laid down in law for making an application? ☐ Yes ☒ No
❖ If so, what is the time limit for lodging an application?
2. Are specific time limits laid down in law for lodging an application? ☐ Yes ☒ No
❖ If so, what is the time limit for lodging an application?
3. Are registration and lodging distinct stages in the law or in practice? ☒ Yes ☐ No
4. Is the authority with which the application is lodged also the authority responsible for its examination? ☐ Yes ☒ No
5. Can an application be lodged at embassies, consulates or other external representations? ☐ Yes ☒ No

Applications for international protection should be submitted to the Border Guard (BG) who will then transfer them to the Head of the Office for Foreigners. The Head of the Office for Foreigners is competent to examine the application, so the BG cannot refuse to accept the application.

If the application is lodged at the border or in detention, **the** BG unit responsible for the border checkpoint or the detention facility is the relevant authority to accept it. If the application is lodged in the territory, it can be submitted to any BG unit. There is also a possibility to declare an intention to apply for international protection by post for i.e., elderly persons, persons with disabilities, pregnant women, and persons in hospitals or imprisoned.⁴⁹

When applying for international protection, one has to submit their travel document (e.g., passport) to the BG. Travel documents are kept by the Head of the Office for Foreigners. Asylum seekers are issued a temporary ID document entitling them to stay on the territory of Poland, the Temporary Identity Certificate of a Foreigner (*Tymczasowe Zaświadczenie Tożsamości Cudzoziemca*). The document is initially valid for 90 days (10 days in the case of Dublin returnees). The document can be prolonged for 6 months (and every 6 months) by the Head of the Office for Foreigners until the end of the asylum procedure.⁵⁰

The BG is entitled to inform an asylum seeker that it is impossible to lodge an application for international protection on a day when said individual comes to the BG unit. However, the BG must then set a date and place when the application will be accepted.⁵¹ In such a situation (e.g., when there is a need to ensure that an interpreter is available), the intention to apply for protection is laid down in a protocol and registered. The Border Guard has 3 working days to ensure the application is lodged and registered (in case of a large number of applications, it is 10 working days). Decision on return cannot be executed during this time.⁵²

According to the official data, 4013 persons⁵³ declared the intention to apply for international protection in 2022, compared to 937 in 2021 and 298 in 2020.⁵⁴ Unfortunately, the declarations are registered without any information on the legal grounds of the application.

⁴⁸ Information provided by the Office for Foreigners, 3 February 2023.

⁴⁹ Article 28(2) Law on Protection.

⁵⁰ Article 55(1) and (2) and Article 55a(2) Law on Protection.

⁵¹ Article 28(1) Law on Protection.

⁵² Article 330(1)8 Law on Foreigners.

⁵³ Information provided by the Border Guard Headquarter, letter no KG-OI-VIII.0180.184.2022 from 17 January 2023.

⁵⁴ Information provided by the Office for Foreigners, 26 January 2021 and 13 April 2022.

C. Procedures

1. Regular procedure

1.1. General (scope, time limits)

Indicators: Regular Procedure: General

- | | |
|--|---|
| 1. Time limit set in law for the determining authority to make a decision on the asylum application at first instance: | 6 months |
| 2. Are detailed reasons for the rejection at first instance of an asylum application shared with the applicant in writing? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 3. Backlog of pending cases at first instance as of 31 December 2022: | 2,829 |
| 4. Average length of the first instance procedure in 2022: | 127 days |

The Head of the Office for Foreigners is a state authority which is responsible, among others, for issuing the first-instance decisions on granting and withdrawing protection status, deciding on the responsible state under the Dublin Regulation and social assistance provided in the asylum procedure. The Head of the Office for Foreigners is also a second-instance authority in residence permit procedures.

The time limit set in law for the Head of the Office for Foreigners to decide on the asylum application is 6 months.⁵⁵ This period can be prolonged to 15 months if the case is considered complicated (165 cases in 2022),⁵⁶ if many asylum seekers are applying at the same time (35 cases in 2022) or if the asylum seeker did not fulfil the obligation of presenting all the evidence and documents or attending the interview (none in 2022).⁵⁷ The number of decisions issued within 6 months-time limit was 9134 in 2022 (except for accelerated procedures). The Office stressed that there are no formal guidelines on what is considered a complicated case and the decision in this regard is taken on an individual basis.⁵⁸

In 2022, the average processing time for a decision on the merits was 127 days (like in 2021). The longest processing time took 967 days (in comparison to 531 days in 2021) and the shortest time was 3 days.⁵⁹ According to the law, if the decision is not issued within 6 months, the general provisions on the inaction of the administrative authority apply,⁶⁰ therefore the Head of the Office for Foreigners should inform the applicant in writing about the reasons for the delay and the applicant can submit a complaint to the second-instance authority. In 2022, there were 1,540 cases in which the Office for Foreigners prolonged the proceedings under the general administrative law provisions. In practice, information about the reasons for the delay is provided in a very general way and complaints to the second-instance authority are rare. In case a decision on asylum application was not issued within the 6 months limit, the applicant can apply for a work permit on this basis (see [Access to the Labour Market](#)).⁶¹ The Head of the Office for Foreigners then issues a certificate, which – together with a temporary ID – gives a right to work in Poland until the end of the procedure. The certificate is also valid for appeal proceedings and onward appeal court proceedings if the suspensive effect is granted.

As of 31 December 2022, there were 2,829 persons whose cases were pending before the Office for Foreigners.⁶²

⁵⁵ Article 34(1) Law on Protection.

⁵⁶ Information provided by the Office for Foreigners, BSZ.WKSI.0656.3.2022/RW 26 January 2022.

⁵⁷ Article 34 Law on Protection.

⁵⁸ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.0656.3.2022/RW, 26 January 2022.

⁵⁹ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.0656.3.2022/RW, 26 January 2022.

⁶⁰ Articles 36-38 Code of Administrative Proceedings.

⁶¹ Article 35 Law on Protection.

⁶² Letter from the Office for Foreigners to HFHR no BSZ.074.3.2021/RW received on 26 January 2021.

1.2. Prioritised examination and fast-track processing

There is no legal basis for prioritising certain types of cases. According to the Office for Foreigners, the Office made efforts to prioritise applications of Afghan nationals as they were considered manifestly well-founded. On the contrary, the Office also tried to prioritise issuing negative decisions towards the applicants from Iraq who crossed the border irregularly.⁶³

1.3. Personal interview

Indicators: Regular Procedure: Personal Interview

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the regular procedure? ☒ Yes ☐ No
 - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. In the regular procedure, is the interview conducted by the authority responsible for taking the decision? ☒ Yes ☐ No
3. Are interviews conducted through video conferencing? ☒ Frequently ☐ Rarely ☐ Never
4. Can the asylum seeker request the interviewer and the interpreter to be of a specific gender? ☒ Yes ☐ No
 - ❖ If so, is this applied in practice, for interviews? ☒ Yes ☐ No

Personal interviews are conducted by the Office for Foreigners and are generally mandatory in a regular procedure, unless:

- ❖ A decision on granting refugee status can be issued based on evidence already gathered; or
- ❖ An applicant is not fit to be interviewed (e.g. due to health or psychological problems).⁶⁴

The Office for Foreigners does not collect data on the number of interviews.⁶⁵

Interpretation

Interpretation is ensured respectively by the Head of the Office for Foreigners (for the first instance proceedings) and the Refugee Board (for the appeal proceedings); i.e. they are responsible for securing interpretation and appointing interpreters. The interview should be conducted in a language understandable to the applicant. In the asylum application, the asylum seeker has to declare their mother tongue as well as any fluent knowledge of other languages. Applicants can further request the interviewer and/or interpreter to be of a specific gender.⁶⁶

The contract established between the Office for Foreigners and interpretation services regulates the quality, liability, and specifies the field (asylum). Interpretation is available in most of the languages spoken by asylum applicants in Poland. In 2019, NGOs reported cases where applicants were held responsible for inconsistencies in testimonies which appeared because of improper interpretation.⁶⁷ In 2020, there was a temporary problem with the Tamil language and 1 person was heard in English with his consent. The Office for Foreigners also reports that in 2021 there was a problem with approaching a female interpreter for some rare languages and a male interpreter was called instead.⁶⁸ In 2022, the Office for Foreigners did not report any problems with the availability of interpreters that are provided by the interpretation agency.

⁶³ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.0656.3.2022/RW, 26 January 2022.

⁶⁴ Article 44(1) and (2) Law on Protection.

⁶⁵ Information provided by the Office for Foreigners, 15 January 2019.

⁶⁶ Article 44(4)2 of the Law on Protection.

⁶⁷ M. Sadowska, K. Słubik *Osoby LGBT [in] Stowarzyszenie Interwencji Prawnej (SIP), SIP w działaniu. Prawa cudzoziemców w Polsce w 2018 r.* (2019), p. 14, available (in Polish) at: <http://bit.ly/2S507LV>.

⁶⁸ Information provided by the Office for Foreigners, 26 January 2022.

Recording and report

Audio or video recording is possible under national legislation if an applicant was informed about this fact and technical means allow for it,⁶⁹ but this is not implemented in practice because there are no technical means for it (no cases in 2020, no data for 2021 and 2022).

The law provides that a copy of the report (protocol) of the interview should be handed over to the applicant after a personal interview. In some cases, the applicants do not take or keep it, but they can ask for a copy at any stage of the proceedings.

The report is written in Polish and includes all questions and answers from the interview, but it's not an exact word-for-word transcript. After the interview, the report is read back to the interviewee in a language they understand, and they are allowed to make any necessary corrections before signing it. However, NGOs have expressed concern that there is a repeated issue with this method of recording interviews.

Frequently, it is only after the interview that the applicant reviews the interview report with someone fluent in both Polish and their native language, and inconsistencies in their testimony are discovered. However, any comments and clarifications made in the appeal or subsequent proceedings are generally not taken into account. Some NGOs suggest that the recording of the interview would allow to establish what was said during its course and whether it was translated properly.⁷⁰

In 2019, videoconferencing was used for interviews in detention centres. NGOs found this practice problematic in terms of interpretation and concerning vulnerable applicants when a presence of a psychologist is required. In 2021, all the interviews in detention centres were conducted remotely, with the use of Polycom and Jabber applications. The Office for Foreigners declared that in 2022 there was a possibility to conduct interviews in person in detention centres, but there are no statistics available on the number of interviews conducted remotely and in person.

In 2020 and 2021 videoconferencing was applied on a larger scale and beyond the detention context due to the pandemic. However, the applicants still had to come to the Office for Foreigners. The interviewee and interviewer were sitting in separate rooms and upon the termination of the interview, the interviewee still had to sign the report (protocol) of the interview. This practice was continued in 2021 and allowed for fewer delays in the duration of proceedings. According to the Office for Foreigners, protocols are mainly prepared on the computer, not handwritten.⁷¹ In 2022 the Office for Foreigners declared that "not all" interviews were conducted remotely.

1.4. Appeal

Indicators: Regular Procedure: Appeal

- Does the law provide for an appeal against the first instance decision in the regular procedure?

❖ If yes, is it	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it suspensive	<input type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative
	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
- Average processing time for the appeal body to make a decision in 2022: 127 days

1.4.1. Appeal before the Refugee Board

Decisions of the Head of the Office for Foreigners in the regular procedure can be appealed to the Refugee Board within 14 calendar days. The decision (without a justification) as well as guidance on how to appeal is translated into the language that the applicant for asylum had previously declared as

⁶⁹ Article 44(5) of the Law on Protection.

⁷⁰ M.Jaźwińska, *Postępowanie w przedmiocie udzielenia ochrony międzynarodowej*, [in] Stowarzyszenie Interwencji Prawnej (SIP), *SIP w działaniu. Prawa cudzoziemców w Polsce w 2018 r.* (2019), available (in Polish) at: <http://bit.ly/2S507LV>, 19.

⁷¹ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.0656.3.2022/RW, 26 January 2022.

understandable; the substantiation of the decision is not translated. The applicant can submit the appeal in their language.

The Refugee Board is an administrative body, consisting of twelve members, supported in their work by six employees, not involved in the decision-making process.⁷² In the regular procedure, decisions are taken by three members. The procedure includes an assessment of the facts and there is a possibility of hearing applicants. The Head of the Office for Foreigners is not a party to these proceedings. The time limit set in law for the appeal procedure is 1 month.⁷³ The appeal has a suspensive effect.⁷⁴ Neither hearings nor decisions of the Refugee Board are made public.

In 2022, the average processing time for the Refugee Board to issue a decision in appeal proceedings was 127 days for the cases which finished in 2022. The longest processing time in 2022 was 1,445 days (in 2021 it was 1697 days) and the shortest - was 1 day. There were 2 cases (in 2021 - none) where the Refugee Board decided to hear the applicant and there were no cases of hearing a witness in 2022 (just like in 2021).⁷⁵ NGOs point out that proceedings in the second instance conducted by this authority are often merely symbolic, and tend to unquestioningly uphold the conclusions made by the Head of the Office for Foreigners.⁷⁶

In 2022, the Covid-19 pandemic no longer affected the appeal proceedings – there were no limitations on hearings or visits of applicants.

The Refugee Board may annul the first instance decision, overturn it, or confirm it. In 2022, appeals to the Refugee Board were submitted in the case of 1,531 applicants. In the case of 1,449 applicants the negative decision was upheld, meaning that the chances of success of appeals are very low in practice. In 2022, refugee status was granted by the appeal body to 6 persons and subsidiary protection was not granted at all.⁷⁷ As of 31 December 2022, there were 277 ongoing appeal cases before the Refugee Board.

When the negative decision or a decision on discontinuing the procedure for international protection is served (delivered), the person concerned has 30 days to leave Poland (unless they are in detention).⁷⁸ During these 30 days, their stay in Poland is considered legal.⁷⁹ Nevertheless, the Refugee Board also informs the Border Guard that the final negative decision on international protection has been served and the Border Guard are obliged to establish if there are legal grounds to initiate the return proceedings.⁸⁰

1.4.2. Onward appeal

After the administrative appeal procedure before the Refugee Board, the decision of the latter can be further appealed to the Voivodeship Administrative Court in **Warsaw** within 30 days, but only points of law can be litigated at this stage.⁸¹ The case is revised *ex tunc*. There is no fee for the procedure. This onward appeal does not have a suspensive effect on a final administrative decision. However, asylum seekers can ask the court to suspend a decision for the time of the court proceedings, if the decision can cause irreversible harm. Therefore, a motion to grant suspensive effect has to be submitted together with

⁷² Information provided by the Refugee Board, 27 August 2015.

⁷³ Article 35(3) Code of Administrative Proceedings.

⁷⁴ Article 130(1) and (2) Code of Administrative Proceedings.

⁷⁵ Information provided by the Refugee Board, 12 January 2023.

⁷⁶ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, available (EN) at: <https://bit.ly/3oaqWBQ>, page 13.

⁷⁷ Information provided by the Office for Foreigners, 3 February 2023 and the Refugee Board, 12 January 2022.

⁷⁸ Article 299(6)1b Law on Foreigners.

⁷⁹ Article 299(7) Law on Foreigners.

⁸⁰ Article 299(10) and (11) Law on Foreigners

⁸¹ Regulated in the Law of 30 August 2002 on the proceedings before administrative courts, Journal of Laws 2012 pos. 270 (*ustawa z dnia 30 sierpnia 2002 r. Prawo o postępowaniu przed sądami administracyjnymi*, Dz.U. 2012, poz. 270).

the complaint.⁸² The authority issuing the decision (in this case the Refugee Board) can also grant suspensive effect on their own decision *ex officio* or upon request.⁸³

The court procedure is adversarial; both the Refugee Board and the asylum seeker are parties before the court. However, the court cannot decide on the merits (i.e. grant protection), but only annul the administrative decision or uphold it. The ruling of the Voivodeship Administrative Court in Warsaw can itself be appealed to the Supreme Administrative Court by lodging a cassation complaint, based exclusively on the legal conditions foreseen in the law, also accompanied by a request for suspension of the administrative decision.

The Law on Foreigners separates asylum proceedings and return proceedings, which means that a return decision is not issued within the asylum procedure. Return proceedings are started after the final administrative decision refusing international protection is served (delivered) to the person concerned (in the case of detainees – while in the case of applicants who are not detained, they have 30 days to leave the territory). However, under the current legal framework, the return proceedings may lead to a return decision being issued before the Voivodeship Administrative Court in Warsaw examines the appeal against the final administrative decision refusing protection to the applicant.

Since 2019, as a result of the judgement in the case C-181/16 *Sadikou Gnandi v. Belgium*, the Voivodeship Administrative generally suspends the enforcement of the negative decision on international protection based on Article 46(5) of the Procedure Directive. This measure is taken to ensure that the return decision is not enforced until the end of the Court proceedings on international protection.⁸⁴ This trend is applicable only with regard to the first application for international protection. In case of subsequent applications, if the application is deemed inadmissible, the Court refuses to grant suspensive effect to such a decision.⁸⁵ However, according to the statistics provided by the Voivodeship Administrative Court in Warsaw for 2022 concerning decisions refusing to grant international protection, the Court decided to grant suspensive effect in 28 cases (50 cases in 2021) and in 22 cases refused to grant suspensive effect to such decisions (37 in 2021).⁸⁶

In general, the administrative court proceedings in Poland are being questioned for their compliance with EU law, especially in light of the CJEU's *Alekszj Torubarov v. Bevándorlási és Menekültügyi Hivatal* (C-556/17) ruling of 29 July 2019. The judgment states that the administrative court must have the authority to enforce final court judgments. These powers must include the possibility of issuing a judgment on the merits if a final judgment is not complied with in subsequent administrative proceedings. Yet, in Poland the law does not provide such a possibility – i.e. the administrative courts do not decide on the merits, do not take into account facts established during the administrative proceedings and cannot grant international protection.⁸⁷

The administrative courts not only refrain from making decisions based on the substance of the case, but they also do not independently establish facts. Instead, they rely on the facts established during administrative proceedings. In 2022, the Supreme Administrative Court made an interesting ruling stating that since national law does not grant sufficient authority to administrative courts to consider circumstances that have emerged after the administrative decision was made, the Procedures Directive

⁸² Article 61(3) of the Law on proceedings before administrative courts.

⁸³ Article 61(2)1 of the Law on the proceedings before administrative courts.

⁸⁴ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at: <https://bit.ly/3LnXrIB>, 28.

⁸⁵ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at: <https://bit.ly/3LnXrIB>, 28.

⁸⁶ Information provided by the Voivodeship Administrative Court on 24 January 2022 and 17 January 2022. However, with regard to some application for granting suspending effect the outcome was not given.

⁸⁷ P. Iżycki, *O merytorycznym orzekaniu sądów administracyjnych w świetle standardu europejskiego – refleksje na gruncie wyroku Trybunału Sprawiedliwości z 29.07.2019 r., C-556/17, Alekszj Torubarov przeciwko Bevándorlási és Menekültügyi Hivatal* [On Administrative Courts' Adjudication on the Merits of Cases in the Light of the European Standard: Reflections Concerning the Judgment of the Court of Justice of 29 July 2019, C-556/17, Alekszj Torubarov v Bevándorlási és Menekültügyi Hivatal], Europejski Przegląd Sądowy 4/2020, abstract available at: <http://bit.ly/2ZmUqwQ>.

has not been fully transposed. As a result, Article 46(3) of the Procedures Directive must be applied directly.⁸⁸ According to the statistics of the Refugee Board, in 2022 there were 307 (compared to 285 in 2021) complaints submitted to the Voivodeship Administrative Court in Warsaw against all the decisions of the Refugee Board (i.e. decisions not only refusing protection). The Voivodeship Administrative Court in Warsaw annulled the decision of the administrative authorities (either of the Refugee Board or both decisions of the first and second instance) in 44 cases in 2022, and in 176 cases it dismissed the complaint. In 76 cases cassation complaints to the Supreme Administrative Court were lodged by the applicants in 2022. The Supreme Administrative Court annulled the judgment of the Voivodeship Administrative Court as well as the decision of the Refugee Board in 2 cases. In 72 cases in 2022, the cassation complaint was dismissed.⁸⁹

1.5. Legal assistance

Indicators: Regular Procedure: Legal Assistance

1. Do asylum seekers have access to free legal assistance at first instance in practice?

☐ Yes
 ☒ With difficulty
 ☐ No

❖ Does free legal assistance cover:

☐ Representation in interview
 ☒ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a negative decision in practice?

☐ Yes
 ☒ With difficulty
 ☐ No

❖ Does free legal assistance cover

☒ Representation in courts
 ☒ Legal advice

A State legal aid system was introduced in 2015 and it covers:

- Legal information, provided by the employees of the Office for Foreigners in cases concerning revocation of protection in the first instance; and
- Legal aid in the second instance is provided by advocates, legal counsellors and NGOs. It involves preparing an appeal and providing legal representation in the second instance in cases concerning:
 - 1) refusal of refugee status or subsidiary protection
 - 2) discontinuance of the procedure
 - 3) refusal of reopening the procedure,
 - 4) Dublin procedure,
 - 5) inadmissibility of the application
 - 6) revocation of protection status.⁹⁰

In any type of decision mentioned above, issued by the first instance authority, the instruction on the right to free legal aid is included and is translated into the language understood by the applicant.⁹¹

The system is managed by the Head of the Office for Foreigners who contracts lawyers, legal counsellors and NGO lawyers. Legal aid is provided by legal counsellors, advocates and 3 NGOs: the Association for Legal Intervention (SIP), The Rule of Law Institute and the Halina Niec Legal Aid Centre.⁹² The list of legal

⁸⁸ Supreme Administrative Court, II OSK 1753/21, judgement of 5 July 2022, summary by SIP available at: <https://bit.ly/41BzEI0>.

⁸⁹ Information provided by the Refugee Board, 12 January 2022. This data may be not fully coherent because of delays in transferring information on judgements.

⁹⁰ Article 69c-69m Law on Protection.

⁹¹ Article 53(1) and 54e(1) Law on Protection.

⁹² The list of legal counsellors, advocates and NGOs is available on the OFF website at: <https://bit.ly/2TYEAUW>.

counsellors and advocates who are available for 2021 is publicly available together with their contact details and is divided by the cities where they provide services.⁹³

In 2022, 169 applicants appealing the decision of the Head of the Office for Foreigners benefited from the free legal aid system, 21 persons were assisted by counsellors or advocates and 126 by NGO lawyers. Considering the low number of individuals benefiting from the legal aid system out of the total of 1,531 appeals in 2022,⁹⁴ it appears that the system has little impact on the effective provision of free legal aid to applicants.

The Association for Legal Intervention (SIP) as one of the few NGOs providing legal aid within the system is also of the opinion that assisting only in the second instance is not sufficient. The main evidence is gathered in the first instance proceedings – that is when the applicants are interviewed, country of origin information is collected and witnesses can be heard, but in this phase of the proceedings free legal assistance is not provided (i.e. private lawyer can be arranged, but it means the applicant bears the costs). SIP provided examples of cases in which some evidence from the country of origin was presented in the appeal but was not taken into account by the second instance authorities, who argued the applicants should have presented them at the first instance. The argument, that the applicant had not been advised by the lawyer on what evidence can be relevant to the procedure was not considered.⁹⁵

There is also a separate free legal aid system for administrative court proceedings (onward appeal). Representation before administrative courts can be provided only by professional legal representatives (lawyers, legal counsellors). There is a general possibility to apply for a cost-free professional legal representation before these courts on the same rules that apply to Polish citizens (i.e. insufficient financial resources). There is a form, in Polish, available in the court or on the court's website (not in the offices of administrative authorities examining the claim). In 2022, the Voivodship Administrative Court in Warsaw (examining all the complaints against decisions regarding international protection) granted free legal assistance in 30 cases and refused to grant it in 33 cases.⁹⁶

For the legal assistance provided in detention see the **Error! Reference source not found.**

Before the system of legal aid was created, legal assistance had been provided by NGOs under the European Refugee Fund (ERF)-funded projects. This funding, now provided under AMIF, has been suspended in practice since mid-2015. Many NGOs, with qualified lawyers, continued to provide free legal assistance in the proceedings (including the first instance), but this assistance is not provided on a large scale nor is it stable, since it often depends on short-term funding within projects. Due to the lack of funding, NGOs generally lack resources and cannot assist applicants on a wider scale covering e.g. the presence of a lawyer during any interview.

In August 2021, many NGOs moved to the border zone to provide legal and humanitarian assistance there (see [Access to the territory and pushbacks](#)). The introduction of a state of emergency on 2 September 2021 limited this assistance. It is also worth noting that when the ECtHR extended interim measure in the case of *R.A. and others v. Poland* (application no. 42120/2), it requested that the Polish authorities allow the applicants' lawyers to establish the necessary contact with their clients. The ECtHR also indicated that, if the applicants are on Polish territory, they should not be sent to Belarus. Poland did not comply with the measure and provided the ECtHR with its position maintaining that, although it understands the humanitarian aspect of the Court's position, it cannot violate the integrity of the neighbouring country where the migrants are situated. Moreover, Poland suggested that the applicants' legal representatives go to the nearest border-crossing point in order 'to cross the Polish–Belarusian

⁹³ The Office for Foreigners, cost free legal aid, list of service providers, <https://bit.ly/3oJiQl>.

⁹⁴ Information provided by the Office for Foreigners, 3 February 2022.

⁹⁵ SIP, *Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2019 r.*, [Report SIP in action. The Rights of the foreigners in 2019.], available (in Polish) at: <https://bit.ly/2NhMJ8K>.

⁹⁶ Information provided by the Voivodship Administrative Court on 24 January 2022.

border in accordance with the law and, when on the territory of Belarus, go to the camp where the complainants are staying'.⁹⁷

Reduction of the no-entry zone near the Polish-Belarusian border from around 3 km from the border to 200 m from the border, which took place on 1 July 2022, made it easier for the lawyers to provide legal assistance. However, as noted by NGOs, this does not mean that there is full access to legal assistance. Pushbacks occur so rapidly that legal representatives often do not have the chance to respond, such as presenting their power of attorney, and only find out about the pushback afterwards. HFHR reports, that the Border Guard sometimes questions the authenticity of the powers of attorney - especially if they concern legal representatives who are not professional attorneys (which is possible in administrative proceedings). There have been instances where migrants have terminated their powers of attorney due to influence from Border Guards, who allegedly provided them with misleading information such as promising better legal assistance.⁹⁸

2. Dublin

2.1. General

Dublin statistics: 2022

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	283	90 ⁹⁹	Total	5,925	434 ¹⁰⁰
Germany	83	33	Germany	4,117	284
Romania	41	17	France	601	19
Bulgaria	33	7	Belgium	260	2
France	33	10	The Netherlands	252	5
Lithuania	15	6	Norway	146	29

Source: Office for Foreigners, 3 February 2023.

⁹⁷ Fundamental Rights Agency, Migration: Key fundamental rights concern, Quarterly Bulletin 3, available (EN) at: <https://bit.ly/3uEvu4G>.

⁹⁸ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, available (EN) at: <https://bit.ly/3oagWBQ>, page 3.

⁹⁹ According to the Border Guard statistics, numbers concerning transfers are different. In 2022 in total, there were 116 "out" transfers, 37 to Germany, 20 to Romania, 14 to Lithuania.

¹⁰⁰ According to the Border Guard statistics, there were 501 "in" transfers, 309 from Germany, 43 from Norway and 40 from Sweden.

Outgoing Dublin requests by criterion: 2022		
Dublin III Regulation criterion	Requests sent	Requests accepted
“Take charge”: Articles 8-15:	67	27
Article 8 (minors)	7	0
Article 9 (family members granted protection)	5	2
Article 10 (family members pending determination)	5	0
Article 11 (family procedure)	2	1
Article 12 (visas and residence permits)	31	19
Article 13 (entry and/or remain)	2	1
Article 14 (visa free entry)	0	0
“Take charge”: Article 16	0	0
“Take charge” humanitarian clause: Article 17(2)	15	4
“Take back”: Article 18	216	139
Article 18 (1) (b)	184	66
Article 18 (1) (c)	3	22
Article 18 (1) (d)	29	51
Article 20(5)	0	0

Source: Office for Foreigners, 3 February 2023.

Incoming Dublin requests by criterion: 2022		
Dublin III Regulation criterion	Requests received	Requests accepted
“Take charge”: Articles 8-15	3,161	1,575
Article 8 (minors)	4	3
Article 9 (family members granted protection)	1	1
Article 10 (family members pending determination)	7	6
Article 11 (family procedure)	21	4
Article 12 (visas and residence permits)	1,434	1,402
Article 13 (entry and/or remain)	1,645	151
Article 14 (visa free entry)	39	0
“Take charge”: Article 16	0	0
“Take charge” humanitarian clause: Article 17(2)	10	8
“Take back”: Articles 18 and 20(5)	2,764	2,679
Article 18 (1) (b)	2,708	996
Article 18 (1) (c)	6	1,347
Article 18 (1) (d)	49	331
Article 20(5)	1	5

Source: Office for Foreigners, 3 February 2023.

2.1.1. Application of the Dublin criteria

As the statistics show, Poland is mainly a country receiving Dublin requests from other countries. The most frequent case is when an applicant has his application under examination in Poland and made another application in another Member State (or stays there without a residence document).

2.2. Procedure

Indicators: Dublin: Procedure

1. Is the Dublin procedure applied by the authority responsible for examining asylum applications?
☒ Yes ☐ No
2. On average, how long does a transfer take after the responsible Member State has accepted responsibility?
several days – up to 2 weeks¹⁰¹

The Head of the Office for Foreigners is responsible for Dublin procedures and the Border Guard is responsible for transfers.¹⁰² All asylum seekers over the age of 14 are fingerprinted and checked in Eurodac at the time of lodging their asylum application. In all cases, the Head of the Office for Foreigners applies the Dublin procedure.¹⁰³ The CJEU's ruling in *Mengesteab*,¹⁰⁴ which permits Member States to implement the Dublin procedure from the time of registration before the submission of an application, has not altered the practice of the Office for Foreigners. The Office still initiates the Dublin procedure from the time when the application is submitted.

According to the Office for Foreigners, if the authorities decide to apply the Dublin procedure, asylum seekers are informed about it. They are also informed about the following steps of the procedure e.g. decision received from another Member State, or the need to submit additional documents.

2.2.1. Individualised guarantees

The Office for Foreigners responded, that in 2022 and 2021 only Greece was on the list of countries to be asked for individualised guarantees. However, since Greece does not provide guarantees to hold on to reception standards, no transfers are carried out based on the decision of the European Commission from 8 December 2016.

2.2.2. Transfers

According to the Border Guard, the transfer is organised within days from the moment the decision on transfer becomes final, bearing in mind the time in which other states expect to be informed about the transfer in advance and depending on the availability of plane tickets, etc.¹⁰⁵

In 2022, the Covid-19 pandemic did not influence Dublin procedures, but Poland suspended “in” transfers as a result of the Russian invasion on Ukraine.¹⁰⁶

Asylum seekers are transferred under escort only when there is a risk of absconding or if they have already absconded before. According to the Office for Foreigners, it concerns applicants staying in detention, but there are also cases where applicants staying outside the detention centres were transferred under escort. The Border Guards reported that in 2022, 22 persons were transferred from Poland under escort.¹⁰⁷

There is also a legal basis for detention in Dublin outgoing procedures, based on the risk of absconding (see the section on [Grounds for Detention](#)).¹⁰⁸ The Border Guard reported that in 2022, 110 persons were

¹⁰¹ Information provided by the Border Guard, 13 January 2023.

¹⁰² Article 36(2) Law on Protection.

¹⁰³ The Dublin procedure should be applied in every case: Article 36(1) Law on Protection.

¹⁰⁴ CJEU, Case C-670/16, *Tsegezab Mengesteab v. Bundesrepublik Deutschland (GC)*, Judgment of 26 July 2017.

¹⁰⁵ Information provided by the Border Guard, 13 January 2023.

¹⁰⁶ Information provided by the Office for Foreigners, 3 February 2023.

¹⁰⁷ Information provided by the Border Guard, 4 March 2022.

¹⁰⁸ Article 398(1)(3a) Law on Foreigners.

transferred from detention centres under the Dublin procedure.¹⁰⁹ No information about the legal grounds of the detention was provided in practice.¹¹⁰

2.3. Personal interview

There is no separate interview where an applicant's case falls under the Dublin Regulation. Additional questions for the Dublin procedure form an integral part of the asylum application form.¹¹¹

2.4. Appeal

Indicators: Dublin: Appeal

☒ Same as regular procedure

1. Does the law provide for an appeal against the decision in the Dublin procedure?

	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No
❖ If yes, is it	<input type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative
❖ If yes, is it suspensive	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

Asylum seekers can appeal against decisions taken in the Dublin procedure to the Refugee Board (and then to the Voivodeship Administrative Court in Warsaw and the Supreme Administrative Court) within 14 days following the same procedure described in the section on appeals in the [Regular Procedure: Appeal](#).

The average time for the appeal procedure in Dublin cases in 2022 was 32 days (down from 33 days in 2021). In 2022, the Refugee Board issued 33 decisions (down from 65 in 2021) in Dublin proceedings, with only one decision overturning the decision of the first instance authority.¹¹²

2.5. Legal assistance

Indicators: Dublin: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> With difficulty	<input type="checkbox"/> No
❖ Does free legal assistance cover:	<input type="checkbox"/> Representation in interview		
	<input checked="" type="checkbox"/> Legal advice		
2. Do asylum seekers have access to free legal assistance on appeal against a Dublin decision in practice?

	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> With difficulty	<input type="checkbox"/> No
❖ Does free legal assistance cover	<input checked="" type="checkbox"/> Representation in courts		
	<input checked="" type="checkbox"/> Legal advice		

Free legal assistance is offered as described in the section on [Regular Procedure: Legal Assistance](#). State legal aid covers preparing an appeal and representation in the second instance.¹¹³

2.6. Suspension of transfers

Indicators: Dublin: Suspension of Transfers

1. Are Dublin transfers systematically suspended as a matter of policy or jurisprudence to one or more countries?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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¹⁰⁹ No information provided for 2021.

¹¹⁰ Information provided by the Border Guard, 5 February 2021.

¹¹¹ *Regulation on the application form (see table on legislation)*.

¹¹² Information provided by the Refugee Board, 12 January 2023.

¹¹³ Article 69e Law on Protection.

In 2022, requests were submitted to all countries. Only **Greece** was to be asked for individual guarantees but since there are no positive decisions, no transfers were carried out.¹¹⁴

2.7. The situation of Dublin returnees

There are concerns about whether, under the provisions of the Polish law, the Dublin returnees are always entitled to re-opening their first proceedings on international protection. The time limit to reopen the procedure, set out in the Law on Protection, is 9 months. Contrary to Article 18(2) of the Dublin III Regulation, in cases where e.g. the applicant did not wait for examination of his or her asylum claim in Poland but went to another Member State and did not come back to Poland within 9 months, the case will not be evaluated under the regular “in-merit” procedure. Their application lodged after this deadline will instead be considered as a subsequent application and subject to an admissibility procedure.¹¹⁵ Moreover, if a person left Poland when their application was processed by the appeal authority and the procedure was discontinued by the Refugee Board, there is no possibility of reopening the procedure, even within the 9 months time limit.¹¹⁶ Again, in such a situation, the application of the returnee will not re-open the first proceedings and will be considered as a subsequent application.

Moreover, HFHR reports, that even in a situation when a returnee is entitled to re-open their first procedure, the Border Guards in the detention centres for foreigners make them lodge the subsequent application instead, which is then subject to the admissibility procedure.¹¹⁷ Usually, the second application, based on the same facts as the first one, would be declared inadmissible. The domestic law provides no exception in that respect to the Dublin returnees. Such a situation could therefore violate Article 18(2) of the Dublin III Regulation. The inability to continue the first asylum procedure also means that the Dublin returnees who had already spent the maximum period of 6 months in detention before having left Poland, could be again placed in detention centres after their transfer. In such cases, the summary detention period exceeds 6 months.¹¹⁸

These findings are supported by the statistics presented by the Office for Foreigners. In 2022, the number of decisions on discontinuation of the proceedings for international protection was 4,089.¹¹⁹ The vast majority of these decisions were issued because the applicant withdrew the application, but not in an explicit way, e.g. did not reach the reception centre after applying for protection or left the reception centre and did not come back within 7 days, did not arrive to the interview, or left Poland.¹²⁰ In 2022, the Office registered 176 requests to reopen the procedure, lodged within 9 months-time limit. There is no information on the number of requests lodged after the 9 months-time limit, but there were 1913 persons who lodged subsequent applications in 2022. In the cases of 792 persons, the Office for Foreigners considered the application inadmissible.

HFHR also reported cases in which the courts of other Member States decided not to transfer a person seeking protection to Poland under Dublin.¹²¹ In a judgment from 5 September 2022, the Administrative Court of Minden found that due to existing deficiencies in the refugee reception system, returnees to Poland could be subject to inhuman or degrading treatment, contrary to Article 4 of the EU Charter of Fundamental Rights.¹²² A similar justification was given by the Administrative Court in Hanover (Germany) in a judgment of 7 October 2022, which considered the poor conditions in guarded centres for foreigners and the risk of nearly automatic detention.¹²³ Also, the Court in the Hague in the judgement from 31 May

¹¹⁴ Information provided by the Office for Foreigners, 26 January 2022.

¹¹⁵ Article 40(6) Law on Protection.

¹¹⁶ Information provided by the Refugee Board on 12 January 2023, DOB.WR.1510.1.2023.

¹¹⁷ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, available (EN) at: <https://bit.ly/3oaqWBQ>, page 6.

¹¹⁸ Ibidem, page 7.

¹¹⁹ Information provided by the Office for Foreigners, 3 February 2023.

¹²⁰ Article 40 Law on Protection.

¹²¹ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, available (EN) at: <https://bit.ly/3oaqWBQ>, page 6.

¹²² DE: Regional Administrative Court [Verwaltungsgerichte], VG Minden, 12 L 599/22.A, available (in German) at: <https://bit.ly/3Nd8ovs>.

¹²³ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, 6.

2022, prevented a Dublin transfer to Poland based on the assumption that the independence of the judiciary in Poland is under serious pressure and that there are serious concerns about whether the universal human rights of the LGBTQ+ persons are respected in Poland.¹²⁴

Last but not least, on 15 June 2022, the Court in the Hague, examining the case of a person seeking international protection who was to be returned to Poland, asked the CJEU a preliminary question regarding the Dublin transfers to countries that, despite being members of the European Union, 'seriously and systematically infringe the EU law'.¹²⁵

In March 2021, the Commissioner for Human Rights (Ombudsman) released a report in the framework of the National Preventive Mechanism, which detailed incidents of inappropriate detention of vulnerable Dublin returnees in the preceding years.¹²⁶ According to the report, the problems occurred due to numerous procedural shortcomings during the transfer of a family to Poland by the German police, as well as the lack of appropriate operational algorithms that should have been implemented to promptly identify victims of torture and violence as well as persons whose mental and physical condition rule out their placement in detention. These cases were reported in 2016, but after visits to detention centres in 2018 and 2019, the Commissioner for Human Rights confirmed that the problem persisted.¹²⁷

These findings were also present in the report published in 2022.¹²⁸ The Commissioner for Human Rights, by conducting interviews with detainees and analysing the documentation confirmed, that generally foreigners' statements about experienced violence had no influence on the Border Guards' actions in terms of applying to the court to place a person concerned in detention. Although the Border Guard implemented the Algorithm on how to deal with persons requiring special treatment, the Commissioner broadly criticized it, stating that these guidelines are contrary to the law and make it impossible to properly identify victims of torture. The algorithm is focused on the possibility of treatment in detention for victims of violence rather than on what is explicitly stated in the law, i.e. that if the detention is a threat to the life or health of the person, the person should not be placed in detention (or if already placed, should be released).¹²⁹ The Border Guard confirmed that the Algorithm has not been amended since 2019, despite repeated criticism from the Ombudsman.

The problem of identification of vulnerable persons does not concern solely the Dublin returnees, as described in detail below (see [Guarantees for vulnerable groups](#) and [Detention of vulnerable applicants](#)).

3. Admissibility procedure

3.1. General (scope, criteria, time limits)

An admissibility procedure is provided for in the national legislation.¹³⁰ The Head of the Office for Foreigners is the authority responsible for deciding on admissibility. If an asylum application is deemed

¹²⁴ Ibid.

¹²⁵ CJEU, C-392/22, reference for preliminary ruling lodged in 15 June 2022 by Rechtbank Den Haag, zittingsplaats's-Hertogenbosch, see: <https://bit.ly/41dgloh>.

¹²⁶ The Commissioner for Human Rights, Obco krajowcy w detencji administracyjnej Wyniki monitoringu Krajowego Mechanizmu Prewencji Tortur, Nieludzkiego, Poniżającego Traktowania lub Karania BRPO w strzeżonych ośrodkach dla cudzoziemców w Polsce [Foreigners in administrative detention. Summary of monitoring within the National Preventive Mechanism in the detention centres in Poland, available (in Polish) at: <https://bit.ly/3LnF3ef>.

¹²⁷ Commissioner for Human Rights, *Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Lesznowoli (wyciąg)*, 18 December 2018, available (in Polish) at: <http://bit.ly/2SO3DgP>.

¹²⁸ The Commissioner for Human Rights, Report on the situation of foreigners in detention centres during the crisis on Polish-Belarusian border, [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi. Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur], June 2022, available (PL) at: <https://bit.ly/40cpYCt>.

¹²⁹ The Commissioner for Human Rights, Report on the situation of foreigners in detention centres during the crisis on Polish-Belarusian border, [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi. Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur], June 2022, available (PL) at: <https://bit.ly/40cpYCt>, 40-43.

¹³⁰ Article 38 Law on Protection.

inadmissible, the Head of the Office for Foreigners issues a decision on the inadmissibility of the application.¹³¹

An asylum application is considered inadmissible under the following exhaustive grounds:

- a. Another Member State has granted international protection to the applicant;
- b. A third country can be considered a [First Country of Asylum](#) with regard to the applicant;
- c. The applicant submitted a subsequent application after receiving a final decision, based on the same circumstances;
- d. A spouse of an applicant lodged a new asylum application after the applicant received a final decision and when the spouse's case was part of an application made on their behalf and there are no facts justifying a separate application of the spouse.¹³²

The application is considered inadmissible if there is a first country of asylum where the applicant is treated as a refugee and can enjoy protection there or is protected against *refoulement* in any other way.¹³³

The Office for Foreigners delivered the following inadmissibility decisions in 2022:

Inadmissibility decisions: 2022	
Ground for inadmissibility	Number of persons
Subsequent application	749
Application by dependent (spouse)	42
International protection in another Member State	2
First country of asylum	0
Total	792

Source: Office for Foreigners, 3 February 2023.

There are no specific time limits that must be observed by the Head of the Office for Foreigners in this procedure, so the rules governing regular procedures are applicable; the general deadline is 6 months. There is no data on whether the time limits for taking a decision are respected in practice. In 2022, 9134 decisions were issued within the 6-month time limit – but this includes all the proceedings, not only admissibility.¹³⁴

3.2. Personal interview

Indicators: Admissibility Procedure: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the admissibility procedure?

☐ Yes ☒ No

❖ If so, are questions limited to identity, nationality, travel route? ☐ Yes ☒ No
 ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never

The rules concerning personal interviews are the same as in the [Regular Procedure: Personal Interview](#). There is no data on how many interviews were conducted in admissibility procedures in 2022. The admissibility procedures depend greatly on whether the case requires a detailed interview, as in the regular procedure, or whether it focuses only on specific issues (e.g. new circumstances).

¹³¹ Article 38(4) Law on Protection.

¹³² Article 38 Law on Protection.

¹³³ Article 38 Law on Protection.

¹³⁴ Information provided by the Office for Foreigners, 26 January 2022.

SIP reported a case, where despite the fact the applicant brought up new, significant circumstances in the subsequent application, no interview was conducted by the Office for Foreigners. Both administrative authorities and the Voivodeship Administrative Court in Warsaw claimed that the obligation to conduct an interview was fulfilled in previous proceedings and there is no need to repeat it.¹³⁵

3.3. Appeal

Indicators: Admissibility Procedure: Appeal

☒ Same as regular procedure

1. Does the law provide for an appeal against the decision in the admissibility procedure?

- | | | |
|----------------------------|---|--|
| ❖ If yes, is it | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it suspensive | <input type="checkbox"/> Judicial | <input checked="" type="checkbox"/> Administrative |
| | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |

Generally, the appeal system in the admissibility procedure does not differ from the one in the [Regular Procedure: Appeal](#), as for the proceedings before the Refugee Board. The deadline for the appeal is 14 days. As for the onward appeal before the Voivodeship Administrative Court in Warsaw, the complaint to the court is generally not granted a suspensive effect and therefore does not withhold return proceedings.

3.4. Legal assistance

Indicators: Admissibility Procedure: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

- | | | | |
|-------------------------------------|--|---|-----------------------------|
| ❖ Does free legal assistance cover: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> With difficulty | <input type="checkbox"/> No |
| | <input type="checkbox"/> Representation in interview | | |
| | <input checked="" type="checkbox"/> Legal advice | | |

2. Do asylum seekers have access to free legal assistance on appeal against an admissibility decision in practice?

- | | | | |
|-------------------------------------|--|---|-----------------------------|
| ❖ Does free legal assistance cover: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> With difficulty | <input type="checkbox"/> No |
| | <input checked="" type="checkbox"/> Representation in courts | | |
| | <input checked="" type="checkbox"/> Legal advice | | |

Free legal assistance is offered under the same conditions as described in the section on [Regular Procedure: Legal Assistance](#). State legal aid covers preparing an appeal and representation in the second instance.¹³⁶

4. Border procedure (border and transit zones)

There is no border procedure in Poland. In January 2017, the Minister of the Interior and Administration presented a draft amendment to the Law on Protection, which introduces a border procedure for granting international protection. The Commissioner for Human Rights, as well as the relevant NGOs in Poland, have criticised the draft law for failing to provide sufficient safeguards including limited access to effective remedies and for introducing detention for the duration of the border procedure.¹³⁷ The proposal was last updated in February 2019 and no further information is available since.¹³⁸

¹³⁵ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2021 r. [Report SIP in action. Rights of foreigners in Poland in 2021], available (PL) at: <https://bit.ly/43Cozbo>, page 34.

¹³⁶ Article 69e(1)d Law on Protection.

¹³⁷ See critical opinion of the Law by the Ombudsman, available (PL) at: <https://bit.ly/44Lms5M>.

¹³⁸ Draft law available at: <https://bit.ly/2lqboVu>.

In 2021 the situation at the Polish – Belarusian border led to the introduction of legal measures that limited access to protection at the border (see [Access to the territory and pushbacks](#)). They were still in use in 2022.

5. Accelerated procedure

5.1. General (scope, grounds for accelerated procedures, time limits)

The application for international protection is subject to an accelerated procedure if the applicant:¹³⁹

1. Provides other reasons for applying for asylum than a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, or a risk of serious harm; or did not provide any information on circumstances referring to the well-founded fear of persecutions or risk of serious harm);
2. Misleads the authority by withholding or presenting false information or documents which are important in an asylum procedure;
3. Makes inconsistent, contradictory, improbable or insufficient explanations of the persecution they are fleeing from, which are clearly inconsistent with the country of origin information (COI);
4. Submits an application to delay or frustrate enforcement of a return decision;
5. Is a threat to national security or public order or was, on this ground, already expelled from the territory.

The statistics obtained from the Office for Foreigners show that in 2022, 67 applications were channelled in the accelerated procedure. These concerned the following grounds:

Applicants whose applications were channelled in the accelerated procedure: 2020-2022			
Grounds	2020	2021	2022
Reasons unrelated to grounds for international protection	82	85	40
Misleading authorities by withholding or presenting false information or documents	0	0	0
Inconsistent, contradictory, improbable or insufficient statements	22	15	23
Application solely to delay or frustrate return	10	4	7
Threat to national security or public order	1	1	1

Source: Office for Foreigners.

The Head of the Office for Foreigners should issue a decision in the accelerated procedure within 30 calendar days. If a decision cannot be issued within 30 calendar days, the Head of the Office for Foreigners has to inform the applicant about the reasons for the delay and the date when a decision will be issued.¹⁴⁰ There are no consequences if this time limit is not respected. In 2022, the average time for processing the applications in the accelerated procedure was 99 days.¹⁴¹

SIP reported a case from 2021, where the applicant consequently claimed, that he is afraid of persecution because of his sexual orientation. His statements were generally considered credible but the case was examined in the accelerated procedure based on Article 39(1)1 of the Law on Protection – which means that the authorities considered that the applicant provided other reasons for applying for international protection than a well-founded fear of persecution for reasons of race, religion, nationality, membership of a particular social group or political opinion, or a risk of serious harm.¹⁴²

¹³⁹ Article 39 of the Law on Protection.

¹⁴⁰ Article 39(2) of the Law on Protection and the articles 36-38 Code of Administrative Proceedings.

¹⁴¹ Information provided by the Office for Foreigners, 26 January 2022.

¹⁴² Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2021 r. [Report SIP in action. Rights of foreigners in Poland in 2021], available (PL) at: <https://bit.ly/43Cozbo>, page 35.

5.2. Personal interview

Indicators: Accelerated Procedure: Personal Interview

☒ Same as regular procedure

1. Is a personal interview of the asylum seeker in most cases conducted in practice in the accelerated procedure? ☐ Yes ☒ No
 - ❖ If so, are questions limited to nationality, identity, travel route? ☐ Yes ☒ No
 - ❖ If so, are interpreters available in practice, for interviews? ☒ Yes ☐ No
2. Are interviews conducted through video conferencing? ☐ Frequently ☒ Rarely ☐ Never

The interview in the accelerated procedure is conducted according to the same rules as in the regular procedure (see [Regular Procedure: Personal Interview](#)).¹⁴³ There is no information on the number of cases in which the interview takes place – The Office for Foreigners does not aggregate such data. The interview does not differ from the one in a regular procedure – it is in the same form and the same rules apply.¹⁴⁴

5.3. Appeal

Indicators: Accelerated Procedure: Appeal

☐ Same as regular procedure

1. Does the law provide for an appeal against the decision in the accelerated procedure?
 - ☒ Yes ☐ No
 - ☐ Judicial ☒ Administrative
 - ❖ If yes, is it ☒ Yes ☐ Some grounds ☐ No
 - ❖ If yes, is it suspensive

The appeal system is broadly the same in the accelerated procedure as in the regular procedure. However, there are two important differences:

- (1) The time limit to lodge an appeal is 7 calendar days instead of 14;¹⁴⁵
- (2) Decisions on the appeal in this procedure are issued by only one member of the Refugee Board, instead of three as in the regular procedure.¹⁴⁶

The short timeframe for lodging an appeal, while extended from 5 to 7 calendar days in November 2015, still constitutes a significant obstacle in practice.

¹⁴³ Article 44 Law on Protection.

¹⁴⁴ Information provided by the Office for Foreigners, 1 February 2017.

¹⁴⁵ Article 39(2)(3) Law on Protection.

¹⁴⁶ Article 39(2) Law on Protection.

5.4. Legal assistance

Indicators: Accelerated Procedure: Legal Assistance

☒ Same as regular procedure

1. Do asylum seekers have access to free legal assistance at first instance in practice?

❖ Does free legal assistance cover:

☐ Yes ☒ With difficulty ☐ No
☐ Representation in interview
☒ Legal advice
2. Do asylum seekers have access to free legal assistance on appeal against a decision in practice?

❖ Does free legal assistance cover

☐ Yes ☒ With difficulty ☐ No
☒ Representation in courts
☒ Legal advice

Free legal assistance is offered in the same context described in the section on [Regular Procedure: Legal Assistance](#). State legal aid covers preparing an appeal and representation in the second instance.¹⁴⁷

D. Guarantees for vulnerable groups

1. Identification

Indicators: Special Procedural Guarantees

1. Is there a specific identification mechanism in place to systematically identify vulnerable asylum seekers?

❖ If for certain categories, specify which: see below

☒ Yes ☒ For certain categories ☐ No
2. Does the law provide for an identification mechanism for unaccompanied children?

☒ Yes ☐ No

Applicants who need special treatment are defined in particular as:¹⁴⁸

- ❖ Minors;
- ❖ Disabled people;
- ❖ Elderly people;
- ❖ Pregnant women;
- ❖ Single parents;
- ❖ Victims of human trafficking;
- ❖ Seriously ill;
- ❖ Persons with mental disorders;
- ❖ Victims of torture;
- ❖ Victims of violence (psychological, physical including sexual).

1.1. Screening of vulnerability

Identification of vulnerable applicants is conducted by the Border Guard while registering the application for international protection and by the Office for Foreigners.

The Head of the Office for Foreigners is obliged to assess whether these persons need special treatment in the proceedings regarding granting international protection or social assistance. To make this assessment, the authority can arrange for a medical or psychological examination of the applicant, funded by the state. In case the Head of the Office for Foreigners does not arrange for the medical or psychological examination, it is obliged to inform the person that might require special treatment that they can arrange for such an examination themselves and bear the costs. If a person does not agree to be

¹⁴⁷ Article 69e Law on Protection.

¹⁴⁸ Article 68(1) Law on Protection.

subjected to medical or psychological examination, they should be considered as a person that does not require special treatment. The Head of the Office for Foreigners should make the assessment immediately after the submission of the application for international protection and at any other time until the procedure is finished, in case any new circumstances arise.¹⁴⁹

Since 2017, in Biala Podlaska, near the reception centre, there has been a separate medical unit where initial verification of asylum seekers' health is conducted. Both the procedure and medical unit are called "epidemiological filter".¹⁵⁰ The Office for Foreigners has stated that as of June 16, 2019, every asylum seeker in the reception centre who undergoes the mandatory epidemiological filter procedure will also undergo a vulnerability screening. This is envisaged in the contract for health services for asylum seekers from 4 June 2019.¹⁵¹

In 2019, the UN Committee against Torture pointed out the problem with the appointment of experts to determine whether a foreigner is a victim of torture.¹⁵² Responding to the Committee, the Polish delegation stressed that qualification as a victim of torture does not require an opinion from a specialist and is a part of specialised medical assistance provided during the refugee procedure.¹⁵³

According to a study from 2020, the Office for Foreigners representative admitted that a conversation with a psychologist is usually scheduled if the asylum seeker has indicated relevant psychological issues in their application for international protection. The psychologist can issue an opinion recommending whether the applicant should be considered as requiring special treatment.¹⁵⁴

NGOs generally confirm that the system of identification envisaged in the law does not work in practice. According to SIP, the Office for Foreigners does not, as a rule, require opinions from experts to determine whether an applicant has been a victim of torture based on factors such as scars and wounds. Such a practice makes it difficult for foreigners to prove that they have been victims of torture in their country of origin. Frequently, foreigners arrive in Poland with visible signs of torture. In such cases ordering an examination by an expert could help acquire reliable evidence that a person experienced torture.¹⁵⁵ In the opinion of SIP, problems with proper identification of the victims of violence remained in 2020.¹⁵⁶ Persons who declared that they were victims of violence were not subject to medical or psychological treatment. Additionally, psychologists present during interviews did not prepare opinions analyzing these circumstances.

According to HFHR even in the case of applicants with PTSD, the inconsistencies in testimonies may lead to the refusal of international protection. Furthermore, even at the later stages of the procedure, the appeal body or courts do not appoint independent experts to assess the mental health status of applicants.

NGOs documented important judgements on the matter in 2019. The Supreme Administrative Court,¹⁵⁷ and the Voivodeship Administrative Court in Warsaw,¹⁵⁸ ruled on cases where the applicants were

¹⁴⁹ Article 68(3)-(6) Law on Protection.

¹⁵⁰ Epidemiological filter was realised under the Swiss Polish Cooperation Programme, see: <https://bit.ly/3mMGtDd>.

¹⁵¹ Information provided by the Office for Foreigners on 9 April 2020.

¹⁵² Poland, UN Web TV, *Consideration of Poland (Cont'd) - 1762nd Meeting, 67th Session of Committee Against Torture*, 24 July 2019, available at: <https://bit.ly/2RXiHqd>, and reply of Poland, UN Committee against Torture, *Concluding observations on the seventh periodic report of Poland*, 22-24 July 2019, available at: <https://bit.ly/40EILYH>.

¹⁵³ Ibidem.

¹⁵⁴ Pachocka, M. and Sobczak-Szelc K., 'Refugee Protection Poland – Country Report', Multilevel Governance of Mass Migration in Europe and Beyond Project (Horizon2020), January 2020, available at: <https://bit.ly/2U1A9uL>; 69.

¹⁵⁵ Association for Legal Intervention (Stowarzyszenie Interwencji Prawnej, SIP), *Komentarz SIP: sprawozdanie Polski przed Komitetem przeciwko Torturom ONZ* (Association for Legal Intervention comments on Poland's reporting before UN Committee against Torture), 30 July 2019, available at: <https://bit.ly/3oKWeQk>.

¹⁵⁶ Legal Intervention Association (SIP), *Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r.* [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at: <https://bit.ly/3LnxrIB>, 13.

¹⁵⁷ The Supreme Administrative Court, judgments from 16.05.2019, II OSK 3536/18 and from 13.06.2019, II OSK 3769/18 (not published).

¹⁵⁸ The Voivodeship Administrative Court in Warsaw judgment from 4.04.2019, IV SA/Wa 353/19 (not published).

diagnosed with PTSD due to violence/torture experienced in their countries of origin, however, examination has not been performed by experts appointed by the authorities deciding on international protection. The courts upheld refusal decisions on international protection stating that the testimonies of applicants were inconsistent, the courts also stated that the authorities had no obligation to appoint experts to assess the mental state of health of the applicants. In the oral justification of the judgment from 16 May 2019, the Supreme Administrative Court stated that psychological opinions prepared by the Border Guards, doctors from a psychiatric hospital and experts appointed by the detention court are not credible because they are based on the applicants' testimonies (all these opinions stated that the applicant experienced violence).¹⁵⁹

Identification of vulnerable applicants is also conducted by the Border Guard while registering the application for international protection (the Border Guard assesses whether an applicant may belong to one of these two groups: victims of trafficking in human beings or persons subject to torture).¹⁶⁰ When applying to the court to place an applicant in detention, the Border Guard is also obliged to identify victims of violence and other persons for whom detention will cause a threat to life or health. For this purpose, the Border Guard implemented an algorithm, criticized by the Commissioner for Human Rights and NGOs (see [Detention of vulnerable applicants](#)). The Commissioner for Human Rights, in the report published in 2022 stated that after visiting all the detention centres in Poland, he draws a conclusion that personnel, including psychologists, are not prepared to properly identify victims of torture or inhuman treatment and are not familiar with the Istanbul Protocol or do not use it in practice.¹⁶¹ Physical signs of violence including torture and inhuman treatment (like scars or visible deformations of the body) are ignored. Unfortunately, there are significant shortcomings also concerning mental health. Psychological or psychiatric diagnostics is conducted only after a person is qualified as requiring special treatment by social workers. This means that the competence of social workers in detention centres, who are not required to have psychological or psychiatric qualifications, is considered to be somewhat higher than that of psychologists and psychiatrists who should be at the forefront of identifying vulnerable individuals.¹⁶²

The Office for Foreigners does not collect statistics on the number of asylum seekers identified as vulnerable, which was confirmed during the UN CAT report on Poland in 2019.¹⁶³ According to a study for 2019, published in 2020, in which the Office for Foreigners representatives were interviewed, the largest group are individuals who were subject to physical or psychological violence.¹⁶⁴ However, for this report, the Office for Foreigners reported that in the fourth quarter of 2019, there were 274 asylum seekers identified as requiring special treatment, and only 1 person was identified as a victim of violence.¹⁶⁵ In 2022 and 2021, the Office responded that there were no statistics in this regard.

According to the Office for Foreigners, identification of vulnerable applicants takes place also during regular psychological counselling, available in every reception centre and at the Office for Foreigners (see [Health Care](#)).¹⁶⁶

¹⁵⁹ Information from HFHR obtained on 30 October 2019 and 10 January 2020.

¹⁶⁰ Ordinance of 5 November 2015 on the asylum application form (Rozporządzenie Ministra Spraw Wewnętrznych z dnia 5 listopada 2015 r. w sprawie wzoru formularza wniosku o udzielenie ochrony międzynarodowej), available (in Polish) at: <http://bit.ly/1hljviW>.

¹⁶¹ The Commissioner for Human Rights, Report on the situation of foreigners in detention centres during the crisis on Polish-Belarussian border, [*Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi. Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur*], June 2022, available (PL) at: <https://bit.ly/40cpYCt>, 40.

¹⁶² The Commissioner for Human Rights, Report on the situation of foreigners in detention centres during the crisis on Polish-Belarussian border, [*Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi. Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur*], June 2022, available (PL) at: <https://bit.ly/40cpYCt>, 40.

¹⁶³ UN OHCHR, Committee against Torture concludes its consideration on the report of Poland, 24 July 2019, available at: <https://bit.ly/2Sgy10j>.

¹⁶⁴ Pachocka, M. and Sobczak-Szelc K., 'Refugee Protection Poland – Country Report', Multilevel Governance of Mass Migration in Europe and Beyond Project (Horizon2020), January 2020, available at: <https://bit.ly/2U1A9uL>, 69.

¹⁶⁵ Information provided by the Office for Foreigners on 9 April 2020.

¹⁶⁶ Information provided by the Office for Foreigners, 1 February 2018.

SIP reported a case, which concerned an applicant who was a victim of torture in his country of origin. The administrative authorities did not accept as evidence the documents provided by the applicant and this was the reason the Supreme Administrative Court annulled the decisions.¹⁶⁷ The Court also stressed that the authorities ignored the psychological opinion, in which it had been certified that the applicant had problems with memory and concentration and that he had been diagnosed with PTSD. The Court also highlighted that in the case file, there was no opinion of psychologist taking part in the interview.

1.2. Age assessment of unaccompanied children

Polish law provides for an identification mechanism for unaccompanied children.¹⁶⁸ An asylum seeker who claims to be a child, in case of any doubts as to their age, may have to undergo medical examinations – with their consent or with the consent of their legal representative – to determine their actual age. There are no additional criteria set in law.

In case of lack of consent, the applicant is considered an adult. The results of the medical examination should contain the information if an asylum seeker is an adult. In case of any doubts, the applicant is considered a minor.¹⁶⁹ Undertaking a medical examination is triggered by the authorities and shall be ensured by the BG.¹⁷⁰ The law states that examination should be done in a manner respecting the dignity and using the least invasive technique.¹⁷¹

2. Special procedural guarantees

Indicators: Special Procedural Guarantees

1. Are there special procedural arrangements/guarantees for vulnerable people?

☐ Yes
 ☒ For certain categories
 ☐ No
- ❖ If for certain categories, specify which: Minors; Disabled people; Elderly people; Pregnant women; Single parents; Victims of human trafficking; Seriously ill; People with mental disorders; Victims of torture; Victims of violence (psychological, physical, including sexual).

2.1. Adequate support during the interview

As mentioned in the section on **Identification**, the Head of the Office is obliged to assess whether a person belonging to one of the groups enumerated in the law needs special procedural guarantees. Once the person is considered as requiring special treatment, all actions in the proceedings regarding granting international protection are performed under the following conditions:

- Ensuring freedom of speech, in a manner adjusted to their psychophysical condition;
- On the dates adjusted to their psychophysical condition, taking into account the time in which they benefit from the health care services;
- In the foreigner's place of stay, in case it is justified by their health condition;
- In the presence of a psychologist, medical doctor or interpreter, in case there is such a need.

Upon the request of the applicant considered requiring special treatment, in cases justified by their needs, the actions in the proceedings regarding granting international protection are performed by a person of the same gender, and in the presence of a psychologist, medical doctor or an interpreter, of a gender indicated by the foreigner.¹⁷²

¹⁶⁷ The Supreme Administrative Court judgement, II OSK 373/21, see: Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2021 r. [Report SIP in action. Rights of foreigners in Poland in 2021], available (PL) at: <https://bit.ly/43Cozbo>, page 29-30..

¹⁶⁸ Article 32 Law on Protection.

¹⁶⁹ Article 32(5) Law on Protection.

¹⁷⁰ Article 32 Law on Protection.

¹⁷¹ Article 32(4) Law on Protection.

¹⁷² Article 69 Law on Protection.

The Head of the Office also ensures that the interview is conducted by a person trained in the techniques of hearing such persons and in using the country of origin information.¹⁷³ The Office for Foreigners does not have a specialised unit dealing with vulnerable groups, however, caseworkers are trained by psychologists and EUAA experts and only trained staff can work on these cases.¹⁷⁴ In 2020, there were 21 such caseworkers. In 2021 and 2022, the Office for Foreigners did not give the exact number but ensured that persons with special needs are heard exclusively by persons trained in this regard.¹⁷⁵

NGOs have been raising concerns for years that the identification of vulnerable applicants is inadequate, and as a result, they are not receiving sufficient support during the asylum procedure. In the report for 2020, SIP stressed that psychologists present during interviews did not prepare opinions which would pay attention to the fact that the interviewee was a victim of violence and how this may affect their statements.¹⁷⁶ SIP reported a case, which concerned an applicant who was a victim of torture in his country of origin. The administrative authorities did not accept as evidence the documents provided by the applicant and this was the reason the Supreme Administrative Court annulled the decisions¹⁷⁷. The Court also stressed that the authorities ignored psychological opinion, in which it had been certified that the applicant had problems with memory and concentration and that he had been diagnosed with PTSD. The Court also highlighted that in the case filed, there was no opinion of a psychologist taking part in the interview.

In 2022 and 2021, the interviews were mainly conducted through videoconferencing, but the interviewee and interviewer stayed in the Office for Foreigners, using separate rooms. According to the Office for Foreigners, there were no requests for conducting interviews in another manner, by a conversation in person.¹⁷⁸ The Office for Foreigners does not process any statistics concerning interviews, so no more precise information is available.

2.2. Exemption from special procedures

The law does not exclude the application of the accelerated procedure to vulnerable applicants (apart from some restrictions concerning unaccompanied children, where it is only allowed to examine their application in an accelerated procedure where they pose a threat to national security).¹⁷⁹ In 2022 and 2021, the Office responded that there were no statistics in that regard.

3. Use of medical reports

Indicators: Use of Medical Reports

1. Does the law provide for the possibility of a medical report in support of the applicant's statements regarding past persecution or serious harm? ☐ Yes ☐ In some cases ☒ No
2. Are medical reports taken into account when assessing the credibility of the applicant's statements? ☐ Yes ☒ No

The law provides that a medical or psychological examination can be conducted to assess whether a person needs special treatment with regard to procedural safeguards and reception.¹⁸⁰ There is no medical examination to confirm past persecution or serious harm.

¹⁷³ Article 44(4)(1) Law on Protection.

¹⁷⁴ Information provided by the Office for Foreigners, 3 February 2023.

¹⁷⁵ Information provided by the OF, 3 February 2023.

¹⁷⁶ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], p. 13, available (PL) at: <https://bit.ly/3LnXrIB>.

¹⁷⁷ The Supreme Administrative Court judgement, II OSK 373/21, see: Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2021 r. [Report SIP in action. Rights of foreigners in Poland in 2021], page 29-30. available (PL) at: <https://bit.ly/43Cozbo>.

¹⁷⁸ Information provided by the Office for Foreigners, 26 January 2021.

¹⁷⁹ Article 63a Law on Protection.

¹⁸⁰ Article 68 Law on Protection.

NGOs report that the Office for Foreigners does not, as a rule, require opinions from experts to determine, for example, based on the presence of scars and wounds, if an applicant has been a torture victim.¹⁸¹ Such a practice makes it difficult for foreigners to prove that they have been victims of torture in their country of origin. Foreigners arrive in Poland frequently with visible signs of torture. In such cases, ordering an examination by an expert could help acquire reliable evidence that a person experienced violence.¹⁸²

After visits to all detention centres in Poland, the Commissioner for Human Rights concluded, that personnel in detention centres, including psychologists, are not properly prepared to identify victims of torture and inhuman treatment and do not know the Istanbul Protocol or do not use it in practice.¹⁸³

4. Legal representation of unaccompanied children

Indicators: Unaccompanied Children

1. Does the law provide for the appointment of a representative to all unaccompanied children?
☒ Yes ☐ No

The Law on Protection provides for the appointment of a legal representative to an unaccompanied child - a special guardian (*kurator*).¹⁸⁴ There are no exceptions; each child has to have a legal representative and all unaccompanied children get one in practice. The Head of the Office for Foreigners or the BG immediately lodges the request to the district custodial court. The court appoints the legal representative. Under the law, the deadline for appointing the guardian is 3 days. There is no information on compliance with this rule in practice. One guardian is appointed for the following proceedings: international protection, Dublin procedure, social assistance, and voluntary return.

There is no special requirement in the Law on Protection for being eligible as a representative of an unaccompanied child for an asylum procedure: the representative should be an adult and have legal capacity. Under the law, only the person who undertakes procedural acts in the proceedings granting international protection to an unaccompanied minor should fulfil certain conditions.¹⁸⁵ No remuneration is provided to legal representatives. In practice, in the last years, there were problems arising from the insufficient numbers of trained legal representatives for unaccompanied children. NGO personnel and students of legal clinics at universities are appointed as guardians. The legal representative should be present during the interview, together with a psychologist, and may ask questions and make comments.¹⁸⁶

The Border Guard reports that since December 2015, they use a list of NGO workers who declared their willingness to be a representative of a child.¹⁸⁷ However, as the Border Guard confirms, due to the lack of funding, some NGOs withdrew their representatives from the list. The last update of that list took place in 2019. As of 2022, there were a total of 11 legal representatives on the list, for a total number of 217 unaccompanied children.¹⁸⁸ Their presence on that list is not binding, which means they are not obliged to become a representative.¹⁸⁹

In Poland, according to the Commissioner for the Rights of the Child (Ombudsperson for Children), ensuring legal representation for unaccompanied children remains a challenge, as the legal provisions

¹⁸¹ M.Jaźwińska, Postępowanie w przedmiocie udzielenia ochrony międzynarodowej, [in] Stowarzyszenie Interwencji Prawnej (SIP), SIP w działaniu. Prawa cudzoziemców w Polsce w 2018 r. (2019), page 20. available (in Polish) at: <http://bit.ly/2S507LV>,

¹⁸² Ibidem, page 20.

¹⁸³ The Commissioner for Human Rights, Report on the situation of foreigners in detention centres during the crisis on Polish-Belarussian border, [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi. Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur], June 2022, page 40, available (PL) at: <https://bit.ly/40cpYCt>.

¹⁸⁴ Article 61 Law on Protection.

¹⁸⁵ Article 66 Law on Protection.

¹⁸⁶ Article 65(3) and (4) Law on Protection.

¹⁸⁷ Information provided by the Border Guard, 17 January 2023.

¹⁸⁸ Information provided by the Border Guard on 4 March 2022, KG-OI-III.0180.7.2022/JL, still applicable for 2022.

¹⁸⁹ Information provided by the Border Guard, 17 January 2023.

are not adapted to the needs of such children.¹⁹⁰ Moreover, in 2018, the Commissioner for the Rights of the Child called on the Ministry of Justice to introduce a special type of legal representation for unaccompanied foreign children in Poland. In the opinion of the Commissioner, this would allow a comprehensive and stable representation of a foreign child on the Polish territory, bearing in mind their best interest. The Commissioner criticised the fact that guardians were appointed for concrete proceedings or set of proceedings and they did not have a closer relation with a child, which impeded decision-making and assessing the children's best interest in other fields (such as education, medical care, etc.).¹⁹¹

In the shadow report to the Committee on the Rights of the Child from 2020, NGOs stress that some guardians do not have any personal contact with the unaccompanied minor they represent and because of such a practice, the child does not have much information on their legal situation.¹⁹²

Children do not have access to any information that would be adjusted to their age (leaflets, websites). Additionally, guardians are not supported by interpreters, which makes communication even more difficult.¹⁹³

Problems concerning legal representations of unaccompanied minors are pictured in a case litigated by the Commissioner for Human Rights in 2022.¹⁹⁴ An unaccompanied minor O.A. was intercepted by the Border Guard with a group of other foreigners 60 km from the border with Belarus. On the same day, the Border Guards issued to all of them orders to leave Poland. The unaccompanied minor was considered a dependent of another foreigner and returned in the same manner. Two days later, O.A entered Poland again. This time he was appointed a legal guardian, was placed in foster care and applied for international protection. The Commissioner for Human Rights lodged a complaint against the order to leave Poland to the Voivodeship Administrative Court in Białystok. In the complaint it was brought up, i.a., that the Border Guard took no action to identify O.A. as an unaccompanied minor and infringed the Convention on the Rights of the Child by not appointing a legal guardian, ensuring his best interest. In the judgement from 27 October 2022, the Court admitted that the unaccompanied minor should have had a legal guardian appointed for the case and the lack of appointment indeed constituted an infringement of Article 12 of the Convention of the Rights of the Child. The Court also noted that the Border Guard should have informed the intercepted foreigners about the possibility to apply for international protection in order to respect the principle of *non-refoulement* (the case is also described in the section on [Registration](#)).

In Poland, unaccompanied children are placed in various intervention facilities instead of being placed in a central institution. After the court ruling appointing the representative, they can be placed in foster care facilities or foster families. In 2022, as in the past years, unaccompanied minors were mostly placed in foster care facilities in **Kętrzyn** (16 persons) – due to the proximity to the detention centre in **Kętrzyn**, from which they are released because of age - or in **Warsaw** (4 persons). In 2022, they were placed also in **Elk** (4 persons), Gorzów Wielkopolski (3 persons) and **Wasilków** (3 persons).¹⁹⁵

When the asylum procedure is finished with a negative decision, the minor remains in the same foster family or institution.

In 2022 there were 217 unaccompanied children (up from 199 in 2021) applying for international protection in Poland.¹⁹⁶ According to the Office for Foreigners, the vast majority of procedures are

¹⁹⁰ Fundamental Rights Agency, Migration: Key fundamental rights concerns, Bulletin 2, p. 27, available (EN) at: <https://bit.ly/3GENm1Q>.

¹⁹¹ The Commissioner for the Rights of the Child, letter to the Ministry of Justice, 2 July 2018, available (in Polish) at: <http://bit.ly/2SemlZK>. These letters are no longer available online once the Commissioner for the Rights of the Child changed and the website is being rebuild.

¹⁹² NGOs alternative report to the government report on implementation of the Convention of the Rights of the Child, submitted to UNICEF, August 2020, available (PL) at: <https://bit.ly/3s3hZXK>.

¹⁹³ NGOs alternative report to the government report on implementation of the Convention of the Rights of the Child, submitted to UNICEF, August 2020, available (PL) at: <https://bit.ly/3s3hZXK>.

¹⁹⁴ Judgement of the Voivodeship Administrative Court in Białystok, no II SA/Bk 558/22 of 27 October 2022, see the judgement and comments from the Ombudsman: <https://bit.ly/40HvxsO>.

¹⁹⁵ Information provided by the Office for Foreigners, 3 February 2023.

¹⁹⁶ Information provided by the Office for Foreigners, 3 February 2023 and 26 January 2022.

discontinued because of implicit withdrawal of the application (the minors leave the centres and do not return), in the case of some nationalities (e.g. Vietnamese) the percentage of discontinued applications is 100%.¹⁹⁷

E. Subsequent applications

Indicators: Subsequent Applications

1. Does the law provide for a specific procedure for subsequent applications? ☐ Yes ☒ No
2. Is a removal order suspended during the examination of a first subsequent application?
 - ❖ At first instance ☒ Yes ☐ No
 - ❖ At the appeal stage ☒ Yes ☐ No
3. Is a removal order suspended during the examination of a second, third, subsequent application?
 - ❖ At first instance ☐ Yes ☒ No
 - ❖ At the appeal stage ☐ Yes ☒ No

Subsequent applications are subject to an [Admissibility Procedure](#). If there are no new grounds for the application, a decision on inadmissibility is issued. In 2022, there were 1,913 subsequent applicants submitted mainly by Russian nationals (857 persons).¹⁹⁸

The first subsequent application has a suspensive effect on a return decision and a return order cannot be executed.¹⁹⁹ If the application is considered inadmissible because the applicant did not present any new evidence or new circumstances of the case,²⁰⁰ it can be appealed within 14 days and until the Refugee Board makes a decision, the suspensive effect is upheld. If the application is considered admissible, i.e. containing new evidence or new circumstances relevant to the case, the Head of the Office for Foreigners issues a decision considering the application admissible.²⁰¹ In this case, suspensive effect is in force until the final administrative decision on international protection is served. In case of further subsequent applications, there is no suspensive effect on a return decision.²⁰²

In 2022, the Office for Foreigners issued 136 decisions deeming the application admissible, while the applications of 792 persons were dismissed as inadmissible.²⁰³

In 2019, the Voivodeship Administrative Court in **Warsaw** issued a judgement in which the Court stated that the subsequent application cannot be deemed inadmissible even if only one single element of facts of the case has changed.²⁰⁴

However, as SIP reports, the decision makers apply a narrow interpretation of the notion of 'new evidence or new circumstances' and also misinterpret the importance of new evidence and new circumstances to the proceedings.²⁰⁵ Moreover, the SIP lawyers noted that there is a well-established practice of not conducting interviews in subsequent application proceedings, including when the applicant presented new evidence or new circumstances in the case. SIP reports a case from 2021 of an LGBTQ+ applicant, whose sexual orientation was subject to examination neither in the first proceedings for international protection nor in the subsequent because the second application was considered inadmissible. The Office for Foreigners claimed that belonging to the LGBTQ+ community was a circumstance that was valid in the first proceedings so it cannot be considered a new circumstance in the subsequent proceedings. In this

¹⁹⁷ Information provided by the Office for Foreigners, 15 January 2019.

¹⁹⁸ Information provided by the Office for Foreigners, 3 February 2023.

¹⁹⁹ Article 330(2) and (3) Law on Foreigners.

²⁰⁰ Article 38(4) Law on Protection.

²⁰¹ Article 38(5) Law on Protection.

²⁰² Article 330(2)2 Law on Foreigners.

²⁰³ Information provided by the Office for Foreigners, 26 January 2022.

²⁰⁴ The Voivodeship Administrative Court judgement from 18 April 2019 IV SA/Wa 3394/18, summary available (in Polish) at: <https://bit.ly/2UkEbiB>.

²⁰⁵ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], p. 25, available (PL) at: <https://bit.ly/3LnxrIB>.

case, the lawyers argued that the circumstance to be considered ‘new’ does not necessarily have to arise after the first proceedings were finished, but merely was not examined in the first proceedings. There have been judgements of administrative courts that confirm such an approach.²⁰⁶

Additionally, there is no consistent approach to the change in the country of origin situation. The SIP lawyers report both decisions on the admissibility of the application in such cases where the human rights situation in the country of origin deteriorated (e.g. Belarusian), as well as decisions claiming the application inadmissible in similar circumstances.²⁰⁷ The lawyers believe the subsequent applications are considered inadmissible automatically, even if the person returned to the country of origin and then applied again for international protection and also if their health condition changed.²⁰⁸ Concerning personal interviews, appeals and legal assistance, see the section on the [Admissibility Procedure](#).

F. The safe country concepts

Indicators: Safe Country Concepts

1. Does national legislation allow for the use of “safe country of origin” concept? ☐ Yes ☒ No
 - ❖ Is there a national list of safe countries of origin? ☐ Yes ☒ No
 - ❖ Is the safe country of origin concept used in practice? ☐ Yes ☒ No
2. Does national legislation allow for the use of “safe third country” concept? ☐ Yes ☒ No
 - ❖ Is the safe third country concept used in practice? ☐ Yes ☒ No
3. Does national legislation allow for the use of “first country of asylum” concept? ☒ Yes ☐ No

Since the 2015 reform of the law, the safe country of origin concept is not applicable in Poland. The draft law submitted in 2017 (and updated in February 2019, yet not adopted as of February 2023 introduces the safe country of origin concept and foresees the adoption of national lists of safe countries of origin and safe third countries.²⁰⁹

The concept of the first country of asylum is included in the law and reflects the wording of Article 35 of the recast Asylum Procedures Directive. This provision was not relied on in 2022 and 2021.²¹⁰

²⁰⁶ E.g. Judgement of the Voivodeship Administrative Court in Warsaw of 29 April 2021, IV SA/Wa 14663/20, see: Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2021 r. [Report SIP in action. Rights of foreigners in Poland in 2021], available (PL) at: <https://bit.ly/43Cozbo>

²⁰⁷ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], p.25, available (PL) at: <https://bit.ly/3LnxrIB>.

²⁰⁸ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2021 r. [Report SIP in action. Rights of foreigners in Poland in 2021], available (PL) at: <https://bit.ly/3tgXbhS>.

²⁰⁹ Draft law available (in Polish) at: <http://bit.ly/2lqboVu>.

²¹⁰ Information provided by the Office for Foreigners, 3 February 2023 and 26 January 2022.

G. Information for asylum seekers and access to NGOs and UNHCR

1. Provision of information on the procedure

Indicators: Information on the Procedure

1. Is sufficient information provided to asylum seekers on the procedures, their rights and obligations in practice? ☐ Yes ☒ With difficulty ☐ No

- ❖ Is tailored information provided to unaccompanied children? ☐ Yes ☒ No

The same level of information on the asylum procedure is provided to applicants during all types of procedures. The Border Guard officer who receives an asylum application has to inform the applicant in writing in a language that they understand on:²¹¹

- ❖ Rules related to the asylum procedure;
- ❖ Rights and obligations of the asylum seeker and their legal consequences;
- ❖ The possibility of informing UNHCR of an asylum procedure, reading the files, making notes and copies;
- ❖ NGOs which work with asylum seekers;
- ❖ The scope of the material reception conditions and medical assistance;
- ❖ Access to the free-of-charge state legal aid;
- ❖ The address of the centre where the applicant will live in.

Under the law, the information about the possibility to apply for international protection and the assistance of the interpreter is present at the border crossing points and in detention centres.²¹²

According to the Border Guard, information about the procedure, covering the contact list of NGOs, is provided at the border crossing points and in other places where foreigners stay and is available in 24 languages.²¹³

On the website, the Office for Foreigners provides basic information presented in graphic form, covering topics such as lodging an application, the main steps of the procedures, rights and obligations of applicants and documents issued to beneficiaries. This information is available in Polish, English, Russian and Ukrainian.²¹⁴

Asylum seekers are informed about the Dublin procedure when they apply for international protection in accordance with the Dublin III Regulation and the Commission's Implementing Regulation no 118/2014, including the specific leaflet for unaccompanied children. This information is available in 11 languages.²¹⁵

Main challenges identified in 2022 concerned access to the procedure and [access to the territory](#), which are crucial to be able to benefit from the information about the procedure.

Obstacles with regard to the provision of information concerned persons fleeing Ukraine. On this topic see [TP annex](#).

²¹¹ Article 30(1)(5) Law on Protection.

²¹² Article 29(1) Law on Protection.

²¹³ Information provided by the Border Guard, 17 January 2023 KG-OI-VIII.0180.184.2022.BK.

²¹⁴ Office for Foreigners, information about the proceedings for international protection, available at: <https://bit.ly/442FoMD>.

²¹⁵ Information provided by the Border Guard, 17 January 2023 KG-OI-VIII.0180.184.2022.BK.

2. Access to NGOs and UNHCR

Indicators: Access to NGOs and UNHCR

1. Do asylum seekers located at the border have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☐ With difficulty ☒ No
2. Do asylum seekers in detention centres have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No
3. Do asylum seekers accommodated in remote locations on the territory (excluding borders) have effective access to NGOs and UNHCR if they wish so in practice? ☐ Yes ☒ With difficulty ☐ No

Under the law, the Border Guards are obliged to secure access of UNHCR and NGOs to the applicant, also at the border.²¹⁶

In 2022 and 2021, in the area of the border zone, to which access had been restricted until 30 June 2022, NGOs hardly had access to persons in need of their assistance because of immediate pushbacks. On the situation at the border see [Access to the territory and pushbacks](#).

H. Differential treatment of specific nationalities in the procedure

Indicators: Treatment of Specific Nationalities

1. Are applications from specific nationalities considered manifestly well-founded? ☐ Yes ☒ No
❖ If yes, specify which: n/a
2. Are applications from specific nationalities considered manifestly unfounded?²¹⁷ ☐ Yes ☒ No
❖ If yes, specify which: n/a

As a result of the Russian invasion that started on 24 February 2022 in the territory of Ukraine, Poland accepted refugees on an unprecedented scale. On the different treatment of Ukrainian nationals and persons of other nationalities fleeing war, see more in the [TP annex](#) to the report.

As of 31 December 2022, according to the Border Guard, no returns are carried out to the following countries: **Syria, Eritrea, Afghanistan, Yemen and Ukraine**.²¹⁸ However, NGOs monitoring return operations were notified about the planned return to Ukraine of one person, which took place in February 2023.²¹⁹

²¹⁶ Article 29(2) Law on Protection.

²¹⁷ Whether under the “safe country of origin” concept or otherwise.

²¹⁸ Information provided by the Border Guard, 25 January 2023.

²¹⁹ E-mail information sent by the Border Guard on 7 February 2023.

Reception Conditions

Short overview of the reception system

The Office for Foreigners, supervised by the Ministry of Interior and Administration, is the main body responsible for the reception of asylum seekers in Poland.

Asylum seekers are entitled to material reception conditions during all asylum procedures in Poland. The provision of reception conditions does not depend on the financial situation of asylum seekers.

Material reception conditions are granted from the moment the asylum seeker registers in the reception centre, thus not straightaway after claiming asylum. Only medical assistance can be granted from the moment of claiming asylum (e.g. at the border), in special situations, i.e. in case of threat to life and health. Asylum seekers who cannot apply for asylum on the day they contact the Border Guard should be given a specific date and time when submitting the application will be possible. In this 'waiting period' they are not entitled to any material reception conditions.

Reception conditions are provided A) up until 2 months after a final positive decision on asylum; B) up until 14 days after a final decision discontinuing the asylum procedure (e.g. in admissibility procedures); C) up until 30 days after a final negative decision on asylum given on the merits by the Office for Foreigners or the Refugee Board. During the onward appeal proceedings, the material reception conditions may be re-granted only if the court suspends the execution of the asylum decision that has been appealed. It does not happen in all cases.

There are two forms of material reception conditions. The asylum seekers can live in the reception centre (managed by the Office for Foreigners or one of its contractors) or receive a financial allowance that should cover the expenses of living privately. Despite that under the law accommodation in the reception centre is a rule, usually more asylum seekers choose to receive a financial allowance rather than stay in the centre.

At the end of 2022, 9 reception centres operated in Poland, offering 1,714 places for asylum seekers. Throughout the year, on different dates, three centres served as the first-reception centres (located in **Podkowa Leśna-Dębak Kolonia-Horbów and Biała Podlaska**) and six functioned as accommodation centres (located in **Białystok, Czerwony Bór, Bezwola, Łuków, Grupa and Linin**). The Head of the Office for Foreigners is responsible for the management of all the centres. This authority can delegate its responsibility for managing the centres to social organisations, associations, private owners, companies etc. Currently, 5 reception centres are managed by private contractors. Overcrowding was not an issue reported in practice in 2022. The conditions in the centres have improved in recent years, although certain problems are still being reported such as the remote location of certain centres, which impedes the integration process of asylum seekers.

The amount of financial allowance that is granted to asylum seekers living outside the reception centres is not sufficient to cover all expenses of their stay in Poland or even to satisfy their basic needs. It is difficult to rent an apartment with this allowance.

The law allows for access to the labour market for asylum seekers after six months from the date of submission of an asylum application if a final decision has not been taken within this time and if the delay is not attributed to any fault of the asylum seeker. However, in practice, it is problematic for asylum seekers to find a job in Poland.

Asylum-seeking children have access to education in public schools. However, multiple problems are reported regarding access in practice.

Health care is provided to asylum seekers throughout asylum proceedings by the Petra Medica company. Asylum seekers can see a doctor or a psychologist in all reception centres. Psychological treatment

available to asylum seekers is generally considered insufficient. Asylum seekers can also see other specialists but with some difficulty. Accessing costly specialized treatment is hampered. In general, the provision of medical assistance by the Petra Medica is criticised.

A. Access and forms of reception conditions

1. Criteria and restrictions to access reception conditions

Indicators: Criteria and Restrictions to Reception Conditions

1. Does the law make material reception conditions to asylum seekers in the following stages of the asylum procedure?

❖ Regular procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Dublin procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Admissibility procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Border procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Accelerated procedure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ First appeal	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No
❖ Onward appeal	<input type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input checked="" type="checkbox"/> No
❖ Subsequent application	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Reduced material conditions	<input type="checkbox"/> No

2. Is there a requirement in the law that only asylum seekers who lack resources are entitled to material reception conditions?

<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
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1.1. The right to reception at different stages of the procedure

Asylum seekers are entitled to material reception conditions during all asylum procedures in Poland. There is no difference between regular, accelerated and admissibility procedures, as well as first appeal.²²⁰ The provision of reception conditions does not depend on the financial situation of asylum seekers.

Asylum seekers are entitled to material reception conditions after claiming asylum, from the moment they register in the first reception centre. They should register there within two days after making their application, otherwise, their procedure is discontinued (unless they declare another place of stay), as was the case in 427 cases in 2022 (up from 59 in 2021).²²¹ Only medical assistance can be granted from the moment of making an asylum application (i.e. before registration in a first reception centre) in special situations, i.e. in case of threat to life and health.²²² Since 24 February 2022, it has also been possible to grant a financial allowance for asylum seekers living outside reception centres without their prior registration in one of the first-reception centres.²²³

Exceptionally, the Border Guard is entitled to inform an asylum seeker that it is impossible to apply for asylum the day they present themselves at the Border Guard unit. In such a situation, the Border Guard registers a declaration of intention to submit the asylum application and determines a later date (no longer than 3 working days, in case of massive influx - 10 working days) and place to officially apply for asylum.²²⁴ In 2022, such an opportunity was given in total with regard to 4,013 foreigners (corresponding to 3,570 declarations registered, a significant rise in comparison with recent years).²²⁵ By law, asylum seekers waiting to officially apply for asylum are not entitled to any form of material reception conditions in Poland. The problem concerns both first-time asylum seekers and rejected asylum seekers who intend to apply

²²⁰ Article 70 Law on Protection.

²²¹ Article 40(1)(2) in conjunction with Article 40 (2)(1) Law on Protection. Information provided by the Office for Foreigners, 3 February 2023 and 26 January 2022. This number includes all situations where asylum seekers did not register in the reception centre in 2 days, so both when they did not manage to get there in time and when they did it intentionally (e.g. they left Poland to seek asylum elsewhere).

²²² Article 74(1)(1) Law on Protection.

²²³ Article 74(1a) Law on Protection.

²²⁴ Article 28(1) Law on Protection.

²²⁵ Information provided by the Border Guard's Headquarters, 17 January 2023. In 2019, a later date was given in 165 cases, in 2020 – in 298 cases and in 2021 – in 937.

for asylum again, but the latter try to avoid a gap in obtaining assistance by submitting a subsequent application before the entitlement to material reception conditions resulting from a previous asylum procedure elapses.²²⁶

Reception conditions are provided.²²⁷

- (a) until 2 months after a final positive decision on asylum;
- (b) up until 14 days after a final decision discontinuing the asylum procedure (e.g. in admissibility procedures);
- (c) up until 30 days after a final negative decision on asylum given on the merits by the Office for Foreigners or the Refugee Board.²²⁸

In principle, during the onward appeal procedure before the Voivodeship Administrative Court in Warsaw, asylum seekers are not entitled to material reception conditions.²²⁹ In practice, when the court suspends enforcement of the contested decision of the Refugee Board for the duration of the court proceedings, asylum seekers are re-granted material reception conditions to the same extent as during the administrative asylum procedure, until the ruling of the court (according to the Office for Foreigners, there were 10 such cases in 2022).²³⁰ In 2022, in 28 cases the Court decided to grant suspensive effect and in 22 cases refused to grant suspensive effect to a negative decision concerning international protection.²³¹ In practice, asylum seekers deal with the problem of the lack of material reception conditions during the court proceedings by submitting subsequent asylum applications.

Asylum seekers who are subject to a Dublin transfer from Poland are entitled to material reception conditions until the day they should leave the country.²³² Thus, this assistance may be granted for a longer period of time than in other cases when a decision discontinuing the proceedings is issued (it is an exception from the 14 days rule mentioned above). Moreover, Dublin returnees may request additional assistance. The request has to be made in a specific term (since 7 April 2023, 21 days from the moment when the decision on transfer became final – instead of 30 days) to the Chief Commander of the Border Guard (instead of the Head of the Office for Foreigners). After this time, the demand of the asylum seeker is left without consideration.²³³ The additional assistance covers travel costs, administrative payments for travel documents or visas and permits, the cost of food before and during the travel, accommodation before the travel, and medical assistance.²³⁴ The decision on the assistance before and during the Dublin transfer cannot be appealed to the second-instance administrative authority, but a judicial remedy should be available in front of the Voivode Administrative Court.²³⁵

Moreover, access to material reception conditions is to be continuously provided if a person concerned applies for assistance in a voluntary return to the Chief Commander of the Border Guard.²³⁶

Some applicants are not entitled to material reception conditions during the asylum procedure e.g. beneficiaries of subsidiary protection (applying for asylum again),²³⁷ foreigners benefiting from

²²⁶ Information provided by SIP, 8 January 2020.

²²⁷ Article 74(1) Law on Protection; Article 299(6)(1)(b) Law on Foreigners.

²²⁸ It is connected with the obligation to depart from Poland in 30 days after receiving final negative decision on asylum.

²²⁹ After the administrative appeal procedure before the Refugee Board, there is a possibility of an onward appeal before the Voivodeship Administrative Court in Warsaw, but only points of law can be litigated at this stage.

²³⁰ This is the long-standing interpretation by the Legal Department of the Office for Foreigners. Information provided by the Office for Foreigners, 3 February 2023.

²³¹ Information provided by the Voivodeship Administrative Court on 17 January 2023. However, with regard to some applications for granting suspending effect the outcome of the proceedings was not given.

²³² Article 74(3)(2) Law on Protection, since 7 April 2023.

²³³ Article 75a(6-7) Law on Protection.

²³⁴ Article 75a(3) Law on Protection, since 7 April 2023.

²³⁵ Article 75a(9) Law on Protection, in force since 7 April 2023. Given the novelty of the measure, practice regarding its application cannot be described at the time of writing.

²³⁶ Article 74(3)(1) Law on Protection, since 7 April 2023.

²³⁷ In practice, some foreigners after the end of the asylum procedure, in which they were granted subsidiary protection, apply for asylum again in order to be granted refugee status.

humanitarian stay or tolerated stay; foreigners staying in Poland based on temporary stay permit, permanent stay permit or long-term residence permit; foreigners staying in youth care facilities or detention centres or a pre-trial custody or detention for criminal purposes.²³⁸ Beneficiaries of subsidiary protection, foreigners staying in Poland based on a permanent stay permit, long-term residence permit or – in some cases – temporary stay permit are entitled to state benefits (general social assistance system) to the same extent as Polish citizens. Foreigners who were granted a humanitarian stay or tolerated stay are entitled to state benefits only in the form of shelter, food, necessary clothing and an allowance for a specified purpose.²³⁹

The special rules concerning the duration of material reception conditions related to the COVID-19 pandemic were repealed in April 2022. Thus, the prolongation of the provision of material reception conditions beyond the regular timeframes lasted only until 15 May 2022.²⁴⁰ According to the Association for Legal Intervention (SIP), the repeal was adopted in violation of the constitutional principle of protection of rightfully acquired rights. In 2022, SIP joined cases before administrative courts concerning the protection of these rights. These proceedings are pending.²⁴¹

1.2. Obstacles to accessing reception

There are some practical obstacles reported in accessing material reception conditions. In 2022, the problems identified in recent years continued.²⁴² The difficulties intertwined with transport from detention centres to reception ones, and with the humanitarian crisis at the Polish-Belarusian border, were most prominent.

Transport from detention centres

Detained asylum seekers face great difficulties when they are released from detention centres. By law, they are not entitled to any support immediately after release. They are granted material reception conditions only from the moment of registration in a reception centre, which is very often located far away from the detention centre. As a result, asylum seekers have difficulties covering the cost of transport to the reception centre and reaching it within the set deadline of 2 days.²⁴³ It should be organised by the Border Guard regarding released pregnant women, single parents, elderly and disabled people.²⁴⁴ The partial data that were made available show that the respective provision of the Law on Protection has been applied in practice concerning 105 third-country nationals in 2022, including 101 detained in Kętrzyn and one family of 4 detained in Białystok.²⁴⁵

Besides that, Border Guard declares that it buys train or bus tickets for released foreigners (Krosno Odrzańskie and Kętrzyn – an unknown number of persons, Białystok – 8 persons, Lesznowola – 62 persons) or transports them to the closest train or bus station (Krosno Odrzańskie – unknown number, Lesznowola – 27 persons) or to a reception centre (Białystok – unknown number, Kętrzyn – 35 persons). Tickets for trains or other means of communication were bought also by NGOs (SIP, Dekalog Foundation), NGOs offered also accommodation and food to released asylum seekers from the Krosno Odrzańskie detention centre.²⁴⁶

²³⁸ Article 70(2) Law on Protection.

²³⁹ Article 5(2) Law of 12 March 2004 on social assistance.

²⁴⁰ Office for Foreigners, 'Zakończenie przedłużonego okresu udzielania pomocy socjalnej', 22.04.2022, available in Polish: <https://bit.ly/3KsCKov>. For more about the COVID-related special rules, see 2020 and 2021 AIDA report on Poland, available at: <http://bit.ly/3ZAFxDz>.

²⁴¹ SIP, 'Protection of acquired rights – we join court proceedings', 5 December 2022, available at: <https://bit.ly/3TVAoF7>.

²⁴² For further information, see previous updates of AIDA, Country Report Poland, available at: <http://bit.ly/3ZAFxDz>.

²⁴³ Article 40(2)(2) of the Act on Protection.

²⁴⁴ Article 89cb Law on Protection. Other vulnerable asylum seekers cannot benefit from the organised transport, which has been described as 'a gap in asylum system': Pachocka, M. and Sobczak-Szelc K., 'Refugee Protection Poland – Country Report', Multilevel Governance of Mass Migration in Europe and Beyond Project (Horizon2020), January 2020, available at: <https://bit.ly/2WpN0sh>, 73.

²⁴⁵ Information from different branches of the SG from March 2023.

²⁴⁶ Ibid.

On the other hand, in December 2022, Stowarzyszenie EGALA and Grupa Granica reported that an Ivory Coast national was released from the detention centre in the middle of the night, in inappropriate clothing for the minus 12°C weather and without any guidance as to where he should go. He was supposed to be assisted with transportation to the reception centre by an NGO later that day, following the previous information from the Border Guard that he would be released in the afternoon. Despite this, he was released a night before. NGOs have been repeatedly calling for the Border Guard to release foreigners during the day when they can access public transportation and travel more safely, albeit to no avail.²⁴⁷

In January 2023, the difficulties with the transport of persons released from detention were noticed by the Polish Human Rights Commissioner. He explained that third-country nationals do not know the Polish language, often do not have Polish currency, and are released from detention in the evenings or at night, which makes their travel very difficult. They sometimes receive some financial support to cover travel expenses from the Border Guard (also from EU funds) or NGOs. However, this is not regulated in law and depends on the willingness and capabilities of those entities. According to the Commissioner, some support mechanisms addressing this problem should be introduced into the Polish legislation. In February 2023, the Border Guard responded that they can act only within their powers arising from the law in force, so they can only provide transport to vulnerable third-country nationals released from the detention centre. The Border Guard tries to release foreigners during the day, but it is sometimes difficult due to the late delivery of the court's decision ordering the release.²⁴⁸

At the Polish-Belarusian border

The humanitarian crisis at the Polish-Belarusian border, that started in 2021 and continued in 2022 (see [Access to the territory and pushbacks](#)), left many prospective asylum seekers without access to material reception conditions.²⁴⁹ Foreigners that were stuck on that border or pushed back to Belarus were often not allowed to apply for international protection in Poland – against Polish, EU and international law – thus, they could not obtain material reception conditions, including medical assistance, that is available to asylum seekers whose applications have been registered. In those circumstances, humanitarian aid (i.e. food, clothes, blankets) and medical assistance²⁵⁰ had to be provided by several local and state authorities (including the Commissioner for Human Rights)²⁵¹, NGOs and private persons. However, its scope and effectiveness were greatly limited after the introduction of the emergency state and - afterwards - similar measures.

2. Forms and levels of material reception conditions

Indicators: Forms and Levels of Material Reception Conditions

1. Amount of the monthly financial allowance/vouchers granted to asylum seekers as 31 December 2022 (in original currency and in €):

❖ Accommodated, incl. food	PLN 50 / € 11
❖ Private accommodation	PLN 775 / € 165

Asylum seekers are either accommodated in a reception centre or receive a monthly financial allowance to cover all costs of their stay in Poland.

²⁴⁷ Stowarzyszenie EGALA, 'Z SOC-u o trzeciej nad ranem', 30.12.2022, available in Polish here: <http://bit.ly/3M682pH>.

²⁴⁸ Human Rights Commissioner, 'RPO pyta o pomoc dla cudzoziemców zwalnianych z ośrodków strzeżonych. Straż Graniczna odpowiada', 3 January and 7 February 2023, available in Polish here: <http://bit.ly/42SHQVz>.

²⁴⁹ See e.g. K. Czarnota and M. Górczyńska, *The Lawless Zone: Polish-Belarusian Border Monitoring*, HFHR, June 2022, available in English here: <http://bit.ly/3K206Dp>; Fundacja Ocalenie, 'Przemoc państwa i działania oddolne', May 2022, available in Polish here: <https://bit.ly/3JZCdwj>.

²⁵⁰ For more, see Health care section below.

²⁵¹ Commissioner for Human Rights, 'Pomoc materialna RPO dla cudzoziemców i organizacji pomocowych działających przy granicy polsko-białoruskiej', 23 September 2021, available in Polish at: <https://bit.ly/3tnTGG8>.

Under the law, the material reception conditions offered in the centre are granted as a rule to all asylum seekers. An asylum seeker can obtain assistance granted outside the centre upon request, examined by the Head of the Office for Foreigners. It can be granted for organisational, safety or family reasons or to prepare asylum seekers for independent life after they have received any form of protection.²⁵² Most of the requests are accepted.²⁵³

All of the abovementioned reception conditions are applied in practice. As of 31 December 2022, 732 (compared to 1,076 in 2021) asylum seekers were residing in the reception centres. Another 2,963 (compared to 4,795 in 2021) asylum seekers were receiving assistance outside the centres.²⁵⁴

All asylum seekers (living in and out of the reception centre) can:

- attend a Polish language course and receive basic material supplies necessary for the course;
- receive school supplies for children, including, as far as possible, the expenses for extra-curricular classes, sports and recreational activities;
- have the costs of public transport covered to (a) attend interviews as part of the asylum procedure; (b) medical examinations or vaccinations; or (c) in other particularly justified cases;
- receive medical care.

Living in the reception centre

For asylum seekers accommodated in reception centres, material conditions include:

- Accommodation;
- Meals in the centre or a financial equivalent (PLN 11 / € 2.33, raised from PLN 9 since 1 November 2022)²⁵⁵ per day;
- Allowance for personal expenses of PLN 50 / € 10.61 per month;
- Permanent financial assistance of PLN 20 / € 4.24 per month for the purchase of hygienic articles or hygienic utilities;
- One-time financial assistance or coupons of PLN 140 / € 29.71 for the purchase of clothing and footwear.

The PLN 70 that asylum seekers receive every month (allowances for personal expenses and hygienic articles or hygienic utilities) is not enough to satisfy their basic needs.²⁵⁶

According to the law, in case an asylum seeker helps in a reception centre (i.e. performs cleaning work for the centre, provides translation or interpretation that facilitates communication between the personnel of the centre and asylum seekers, or provides cultural and educational activities for other asylum seekers who stay in the centre), the amount of the allowance for personal expenses may be raised to PLN 100 (€ 21.24). In 2022 this raise was applied 375 times.²⁵⁷

Living outside the reception centre

For those assisted outside centres, there is one financial allowance for all costs of stay in Poland. This daily allowance depends on the family composition of the applicant:

²⁵² Article 72(1) Law on Protection.

²⁵³ In 2020, 1,053 requests for the social assistance granted outside a centre were registered of which 937 were accepted (89%). In 2021, 2,347 requests were registered and all were accepted. In 2022, 4233 requests were made and 4,200 positively considered. Information from the Office for Foreigners, 26 January 2021, 26 January 2022 and 3 February 2023.

²⁵⁴ Information provided by the Office for Foreigners, 26 January 2022 and 3 February 2023.

²⁵⁵ According to the Ordinance of 6 October 2022, available in Polish at: <https://bit.ly/3lXQ1zk>.

²⁵⁶ M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szalańska (2020) 'Reception Policies, Practices and Responses: Poland Country Report', RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 64, 84.

²⁵⁷ Information provided by the Office for Foreigners, 3 February 2023.

Financial allowance for all costs of stay in Poland (outside reception centres)	
Family composition	Amount per day
Single adult	PLN 25 / € 5.30
Two family members	PLN 20 / € 4.24
Three family members	PLN 15 / € 3.18
Four or more family members	PLN 12.50 / € 2.65

The amount of financial allowance that asylum seekers receive is generally not sufficient to ensure an adequate standard of living in Poland.²⁵⁸ With only PLN 750-775 (around € 160-166) per month, it is very difficult or even impossible to rent an apartment or even a room in **Warsaw**, where most asylum seekers stay during the procedure, particularly taking into account that owners are often unwilling to rent an apartment to foreigners, especially asylum seekers, and tend to increase rent or deposit in such situations.²⁵⁹ As the amount of financial allowance is insufficient for renting separate accommodation, asylum seekers are often forced to live in overcrowded and insecure places. Many of them sleep in overcrowded apartments, where they have to share beds with other people or where living conditions do not provide privacy and personal safety.²⁶⁰ Financial allowance for families of four amounts to PLN 1,500 (around € 318 Euros) per month and in practice it may be enough only to rent an apartment, however with great difficulty. Insufficient social assistance forces asylum seekers to work irregularly in order to ensure their subsistence and be able to afford rent costs. The amount of social assistance for asylum seekers has not been raised since 2003, even though the costs of living in Poland have increased significantly since then. As a result, material reception conditions are insufficient to ensure a decent standard of living as highlighted in the CJEU judgment in *Saciri*.²⁶¹ Moreover, the financial allowance that asylum seekers receive is not adjusted to their state of health, age or disability, which is also incompatible with the *Saciri* judgment.²⁶²

In 2020, SIP submitted a complaint to the European Commission that Poland is not abiding by its obligations stemming from Article 17(2) of the Reception Conditions Directive (2013/33/EU).²⁶³ In 2022, also the Human Rights Commissioner noticed the financial problems of asylum seekers and appealed – unsuccessfully – to the Ministry of Interior and Administration to increase the amount of financial allowance for asylum seekers living outside the reception centres.²⁶⁴

²⁵⁸ FRA, 'Migration: Key Fundamental Rights Concerns: 1.7.2019-30.9.2019. Quarterly Bulletin', 20, relying on the information from the HFHR and SIP. See also Lukasiewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', *International Migration* Vol. 55 (6) 2017, 63-64.

²⁵⁹ 'List of recommendations to improve housing situation of Beneficiaries of International Protection in Poland – prepared by Refugee Council operating within the NIEM/V4NIEM', 2021, available at: <https://bit.ly/3Mmsyjl>; W. Goszczyński, R. Baczyński-Sielaczek, J. Suchomska, J. Stankowska and M. Wróblewski. 'Lokalne systemy integracji uchodźców – badania' in Fundacja EMIC and Pracownia Zrównoważonego Rozwoju, *Wielogłos. Integracja uchodźców w polskich gminach*, 2016, available (in Polish) at: <https://bit.ly/31srALw>, 81.

²⁶⁰ M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szalańska, 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 56-58; W. Klaus, 'Rozwiązania prawne stosowane w odniesieniu do osób starających się o ochronę w Polsce' in A. Górny, H. Grzymała-Moszczyńska, W. Klaus and S. Łodziński, *Uchodźcy w Polsce. Sytuacja prawna, skala napływu i integracja w społeczeństwie polskim oraz rekomendacje*, PAN 2017, available (in Polish) at: <https://bit.ly/2XEdsfZ>, 22; Lukasiewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', *International Migration* Vol. 55 (6) 2017, 63. Information provided also by SIP, 8 January 2020.

²⁶¹ CJEU, Case C-79/13 *Saciri*, Judgment of 27 February 2014.

²⁶² See e.g. the HFHR's opinion concerning planned increase of financial allowances for asylum seekers, 24 September 2021, available in Polish at: <https://bit.ly/3vD2mv4>.

²⁶³ SIP, 'Skarga do KE: rażąco niskie środki finansowe dla osób ubiegających się o udzielenie ochrony międzynarodowej', 7 July 2020, available in Polish at: <http://bit.ly/3rlfYjE>.

²⁶⁴ Human Rights Commissioner, 'Zbyt niskie świadczenie pieniężne dla cudzoziemców ubiegających się o ochronę międzynarodową. Odpowiedź MSWiA', 24 October and 23 November 2022, available in Polish here: <https://bit.ly/3KKAUt0>.

Despite the fact that the government started a legislative procedure to increase some of the allowances for asylum seekers (in particular, the one for those living outside the reception centres) in 2021,²⁶⁵ the proposed ordinance in this regard was not adopted. Only one amount was increased in 2022, thus, the equivalent for meals in the reception centre (PLN 11 instead of PLN 9).²⁶⁶ In February 2023, the Human Rights Commissioner again appealed to the Ministry to increase allowances for asylum seekers and the Ministry declared that it plans changes in the respective law (without specifying what changes though).²⁶⁷

3. Reduction or withdrawal of reception conditions

Indicators: Reduction or Withdrawal of Reception Conditions

1. Does the law provide for the possibility to reduce material reception conditions? ☒ Yes ☐ No
2. Does the law provide for the possibility to withdraw material reception conditions? ☒ Yes ☐ No

The law provides for the possibility to withdraw material reception conditions if an asylum seeker grossly violates the rules in the reception centre or acts violently towards employees of the centre or other foreigners staying there.²⁶⁸ Material reception conditions can be re-granted to the same extent as previously (upon an asylum seeker's request), but if the violation occurs again, it can be re-granted only in the form of a payment of half of the regular financial allowance provided to asylum seekers.²⁶⁹

Although the abovementioned rules are contradictory to the CJEU's preliminary ruling in the case of *Haqbin*,²⁷⁰ they remain in force.²⁷¹ However, since the judgment was rendered none of the asylum seekers has been deprived of reception conditions on this basis.²⁷²

Financial allowance can be reduced to a half also in case of a refusal to undergo medical examinations or necessary sanitary treatment of asylum seekers themselves and their clothes.²⁷³ This rule was not applied in 2022.²⁷⁴

Moreover, in case an asylum seeker stays outside the reception centre for a period exceeding two days, material reception conditions should be withheld by law until the moment of his return.²⁷⁵

4. Freedom of movement

Indicators: Freedom of Movement

1. Is there a mechanism for the dispersal of applicants across the territory of the country? ☒ Yes ☐ No
2. Does the law provide for restrictions on freedom of movement? ☐ Yes ☒ No

Officially there is no restriction to the freedom of movement of asylum seekers: they can travel around Poland wherever they want. However, when an asylum seeker accommodated in a reception centre stays outside this centre for more than 2 days, the assistance will be withheld by law until the moment of his/hers

²⁶⁵ The project is available in Polish at: <https://bit.ly/3lJrJ2d>.

²⁶⁶ According to the Ordinance of 6 October 2022, available in Polish at: <https://bit.ly/3lXQ1zk>.

²⁶⁷ Human Rights Commissioner, 'Interwencja RPO ws. świadczeń pieniężnych dla cudzoziemców ubiegających się o ochronę międzynarodową. MSWiA informuje, że będą zmiany w rozporządzeniu', 2 March and 12 April 2023, available in Polish here: <http://bit.ly/3ZqJYkl>.

²⁶⁸ Article 76(1) Law on Protection.

²⁶⁹ Articles 76 and 78 Law on Protection.

²⁷⁰ CJEU (Grand Chamber), case C-233/18 *Haqbin*, Judgment of 12 November 2019.

²⁷¹ M. Łysienia, 'Pozbawienie pomocy socjalnej w postępowaniu uchodźczym: Haqbin a prawo polskie', 12 April 2021, Laboratorium Migracji Blog, available in Polish at: <https://bit.ly/3CckXiQ>.

²⁷² Information provided by the Office for Foreigners since 2020, most recently in February 2023.

²⁷³ Article 81(3) Law on Protection.

²⁷⁴ Information provided by the Office for Foreigners, 3 February 2023.

²⁷⁵ Article 77 Law on Protection.

return.²⁷⁶ Moreover, asylum seekers can leave the centre whenever they want, during the day, but they should be back before 11:00 p.m.²⁷⁷ Asylum seekers may leave the reception centre for a couple of days upon earlier notification in the centre.²⁷⁸

The Office for Foreigners decides to which reception centre asylum seekers will be allocated. This decision cannot be formally challenged. In practice, nuclear families generally stay in the same centre. The decisions are made taking into consideration family ties (asylum seekers should be allocated in the same centre as their families), vulnerability (e.g. asylum seekers with special needs can be allocated only to the centres which are adapted to their needs), the continuation of medical treatment (when it cannot be continued in other premises), the safety of the asylum seeker and capacity of the centres.²⁷⁹

Under the law, an asylum seeker staying in one centre can be required to move to another facility if this is justified for organisational reasons.²⁸⁰ Polish authorities interpret this rule as applying mostly to transfers from first-reception centres to an accommodation centre. As a result, asylum seekers are expected to move from the first reception centre to the other centres. In practice, it can take a few to several days (depending on how long the epidemiological filter procedure lasts and whether the interview is conducted in the first reception centre). Afterwards, if they are allocated to one centre they are very rarely moved to another. If so, it happens mostly upon the request of an asylum seeker. Except for 2020 (due to the pandemic), in the previous years, most of the requests to move to another centre were accepted. However, in 2022, out of 124 persons, 78 were allowed to move to another centre, while 44 were denied this possibility. According to the Office for Foreigners, the denials resulted from organisational reasons: the need to have free spaces left in the first-reception centres and making all centres equally occupied.²⁸¹

Moving an asylum seeker to another centre without a request from them is very rare. In 2022, 2 asylum seekers were required to move to another centre due to the fact that they had alcohol in the centre (which is prohibited) and disturbed the order therein.²⁸²

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

- | | |
|---|----------------|
| 1. Number of reception centres: ²⁸³ | 9 |
| 2. Total number of places in the reception centres: | 1,714 |
| 3. Total number of places in private accommodation: | Not applicable |
| 4. Type of accommodation most frequently used in a regular procedure: | |
| <input checked="" type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input checked="" type="checkbox"/> Private housing <input type="checkbox"/> Other | |
| 5. Type of accommodation most frequently used in an accelerated procedure: | |
| <input checked="" type="checkbox"/> Reception centre <input type="checkbox"/> Hotel or hostel <input type="checkbox"/> Emergency shelter <input checked="" type="checkbox"/> Private housing <input type="checkbox"/> Other | |

At the end of 2022, Poland had nine reception centres which altogether provided 1,714 places²⁸⁴ (compared to eight centres at the end of 2021 accommodating 1,615 persons). As of 31 December 2022,

²⁷⁶ Article 77 Law on Protection.

²⁷⁷ Para 12(3) of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

²⁷⁸ A. Garbolińska, 'Rodzaje ośrodków dla osób w procedurze uchodźczej w Polsce', 2022, available in Polish here: <http://bit.ly/3ziK8zR>.

²⁷⁹ Information provided by Office for Foreigners, 26 January 2021.

²⁸⁰ Article 82(1)(6) Law on Protection.

²⁸¹ Information provided by the Office for Foreigners, 3 February 2023.

²⁸² Information provided by the Office for Foreigners, 3 February 2023.

²⁸³ Both accommodation and for first arrivals.

²⁸⁴ See also ECRE, 'Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers', April 2023, available here: <https://bit.ly/41hGgdJ>, 22.

732 (compared to 1,076 in 2021) asylum seekers were residing in the centres. Another 2,963 (compared to 4,795 in 2021) asylum seekers were receiving assistance outside the centres.²⁸⁵

At the beginning of 2021, Poland had 10 reception centres, but during the year one of them – for women and children, in **Warsaw** – was closed, and two – in **Biała Podlaska** and **Czerwony Bór** – were given temporarily under the command of the Border Guard (albeit one in **Czerwony Bór** not fully) and served as detention centres. In mid-2022, the two latter centres were returned under the management of the Office for Foreigners and again served only as reception centres (the centre in **Biała Podlaska** since 20 June 2023). The centre designed exclusively for women and children was not reopened in 2022. They were accommodated in a separate building in the centre of **Podkowa Leśna-Debak**.²⁸⁶

In 2022, the centres in **Podkowa Leśna-Debak** (until 28 August), **Kolonia-Horbów** (until 19 June) and **Biała Podlaska** (since 20 June) served as the first reception, where asylum seekers are directed after applying for asylum in order to register and carry out medical examinations. At the end of the year, only the centre in **Biała Podlaska** served as the first reception, which was problematic for asylum seekers.²⁸⁷ **Kolonia-Horbów** centre had a mixed role until 19 June 2023 (first reception and accommodation) but then returned to serving only as an accommodation centre. The remaining six centres were accommodation centres (**Białystok**, **Czerwony Bór**, **Bezwola**, **Łuków**, **Grupa** and **Linin**).²⁸⁸

In 2022, there was no problem of overcrowding in these centres.²⁸⁹ On average, the centres were occupied by 45.1%. As of 31 December 2022, the highest occupancy rate was 70.91% in **Kolonia-Horbów** and the lowest was in **Debak-Podkowa Leśna** – 20.83%.²⁹⁰

Since March 2022, the reception centres for asylum seekers have been serving also as a place for accommodation for some temporary protection beneficiaries. However, only 6 temporary protection beneficiaries benefited from this accommodation throughout the year.²⁹¹

Centres are located in different parts of Poland. One is located in a city (**Białystok**), but most of them are situated in the countryside. **Bezwola**, **Debak**, **Grupa** and **Linin** are in the woods. These centres are therefore not easily accessible. In **Debak**, until recently, residents had to walk 3 km through the woods to access public transport.²⁹² However, since 2021 the Office for Foreigners organizes regular transport from the **Debak** centre to the railway station in Otrębusy and back to facilitate transport to Warsaw (albeit only twice a day).²⁹³

Spatial exclusion as a result of the present location of the centres is considered the main problem by some NGOs.²⁹⁴ Isolation of the centres limits contact with Polish citizens and Polish institutions, including

²⁸⁵ Information provided by the Office for Foreigners, 26 January 2022 and 3 February 2023.

²⁸⁶ Information provided by the Office for Foreigners, 3 February 2023. See also PAP, 'Straż Graniczna: zamknęliśmy wszystkie dodatkowe ośrodki strzeżone dla migrantów', 15 September 2022, available in Polish here: <https://bit.ly/3KmRlFe>.

²⁸⁷ ECRE, 'Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers', April 2023, available here: <https://bit.ly/41hGgdJ>, 22-23.

²⁸⁸ Information provided by the Office for Foreigners, 3 February 2023.

²⁸⁹ ECRE, 'Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers', April 2023, available here: <https://bit.ly/41hGgdJ>, 24.

²⁹⁰ Information provided by the Office for Foreigners, 3 February 2023.

²⁹¹ Information provided by the Office for Foreigners, 17 January 2023. For more, see Temporary protection Annex: Housing.

²⁹² For the opinions about the centres' distant locations see M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szałańska, 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 61-63.

²⁹³ Information provided by the Office for Foreigners, 26 January 2022 and 3 February 2023. See also ECRE, 'Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers', April 2023, available here: <https://bit.ly/41hGgdJ>, 23.

²⁹⁴ See W. Goszczyński, R. Baczyński-Sielaczek, J. Suchomska, J. Stankowska and M. Wróblewski. 'Lokalne systemy integracji uchodźców – badania' in Fundacja EMIC and Pracownia Zrównoważonego Rozwoju, *Wielogłos. Integracja uchodźców w polskich gminach*, 2016, available (in Polish) at: <https://bit.ly/31uBLiE>, 58. See also M. Baran-Kurasiewicz, 'Uzyskanie statusu uchodźcy i sytuacja uchodźców w Polsce', *Polityka i Społeczeństwo* 3(19)/2021, 17.

NGOs. It affects the effectiveness of the integration process.²⁹⁵ In addition, the reception centres are located in areas with a high level of poverty, which hampers the asylum seeker's access to the labour market.²⁹⁶ Moreover, the isolation of asylum seekers from society negatively affects their psychological state.²⁹⁷

2. Conditions in reception facilities

Indicators: Conditions in Reception Facilities

1. Are there instances of asylum seekers not having access to reception accommodation because of a shortage of places? ☐ Yes ☒ No
2. What is the average length of stay of asylum seekers in the reception centres? Not available
3. Are unaccompanied children ever accommodated with adults in practice? ☐ Yes ☒ No

The Head of the Office for Foreigners is responsible for the management of all the centres. This authority can delegate its responsibility for managing the centres to social organisations, associations, private owners, companies, etc.²⁹⁸ Currently, 5 reception centres are managed by private contractors, while the remaining ones are directly managed by the Office for Foreigners.

The Office for Foreigners monitors the situation in the centres managed by private contractors daily through the Office's employees working in those centres and through the overall inspections taking place a couple of times a year. In 2022, the centres managed by private contractors were monitored 15 times, while the ones managed by the Office itself - 7 times. In addition, in 2022, once a year for all centres, a special control concerning security services was performed. Medical establishments within the centres were monitored too – 11 times in 2022.²⁹⁹

Conditions in the centres managed by the Office for Foreigners are occasionally monitored by other authorities and entities as well, e.g. health authorities (8 times in 2022), the UNHCR, or the Commissioner for Human Rights.

Asylum seekers can complain to the Office for Foreigners about the situation in the centres.³⁰⁰ In 2021, in total 86 complaints were submitted, including 20 concerning food in the centres – its quality and amounts. Asylum seekers complained also about the performance of the duties by the centres' employees. In 2022, 15 requests and 9 complaints concerning reception centres were lodged in the Office for Foreigners. They concerned mostly food served in the centres and living conditions therein. Out of the complaints, only one was considered justified.³⁰¹

The average length of stay of asylum seekers varied between the centres. While the stay in the first reception centres is designed to be short, asylum seekers stayed in accommodation centres, on average, 37 days (Grupa) and 136 days (Białystok).³⁰²

²⁹⁵ Institute of Public Affairs, *Analiza przygotowania lokalnych instytucji do przyjęcia uchodźców z programu relokacji i przesiedleń. Raport końcowy z badań fokusowych*, 2016, available (in Polish) at: <http://bit.ly/2GBfKr4>, 12-14; Lukaszewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', *International Migration* Vol. 55 (6) 2017, 65.

²⁹⁶ Lukaszewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', *International Migration* Vol. 55 (6) 2017, 61.

²⁹⁷ A. Garbolińska, 'Rodzaje ośrodków dla osób w procedurze uchodźczej w Polsce', 2022, available in Polish at: <https://bit.ly/3ziK8zR>.

²⁹⁸ Article 79(2) Law on Protection.

²⁹⁹ Information provided by the Office for Foreigners, 3 February 2023.

³⁰⁰ Para 17 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

³⁰¹ Information provided by the Office for Foreigners, 26 January 2022 and 3 February 2023.

³⁰² Information provided by the Office for Foreigners, 3 February 2023.

2.1. Overall living conditions

Living conditions differ across the reception centres. In the centres managed by private contractors, ensuring certain minimum living conditions standards is obligatory based on agreements between these contractors and the Office for Foreigners. Thus, centres have to have furnished rooms for asylum applicants, a separate common room for men and for women, a kindergarten, a space to practice religion, a recreation area, school rooms, and a specified number of refrigerators and washing machines. Other conditions are dependent on the willingness and financial capacities of the contractor. Most often, one family stays in one room, without separate bedrooms or a kitchen. Moreover, usually, the centres do not offer separate bathrooms and kitchens, only the common ones.³⁰³ Persons travelling without their families may be accommodated with other single asylum seekers unknown to them.³⁰⁴

None of the centres was built to serve as a reception centre for asylum seekers. Most of them were used for different purposes before, such as army barracks, hostels for workers or holiday resorts.³⁰⁵

In general, conditions in the reception centres are considered to be better now than in the past. It results from greater attention given to the living conditions when a contractor for running a centre is being chosen and the renovations conducted in recent years in the centres that are managed by the Office for Foreigners. Despite that, some asylum seekers complain about those conditions, mentioning for instance bed bugs in the rooms.³⁰⁶ According to the NGOs, asylum seekers generally assess the conditions in the centres as rather low.³⁰⁷ Meanwhile, the Office for Foreigners' anonymous survey conducted in June 2022 in 4 reception centres managed by the Office (238 out of 334 asylum seekers living in the centres took part in the survey) showed that asylum seekers living there were overall satisfied with the material reception conditions they received (with a general satisfaction rate of 87.52%). Moreover, in 2022, the centre in Linin, which has been in previous years rated one of the worst in the Office for Foreigners' surveys, was renovated.³⁰⁸ On the other hand, in 2022, one of the wings in the centre in Podkowa Leśna-Dębak collapsed. Nobody was injured, but asylum seekers had to be moved to another centre and the centre in Dębak had to be renovated.³⁰⁹

Protests or hunger strikes in reception centres occasionally happen in the reception centres. In 2020, women and single mothers staying in the centre in Warsaw opposed the limitations that resulted from the COVID-19 quarantine. According to the Office for Foreigners, thanks to the immediate reaction of the Office, medical operator and NGOs, the situation was quickly under control.³¹⁰ In January 2022, one hunger strike was reported in the centre in **Grupa**. According to the Office for Foreigners, Afghan nationals protested about the food they were served in the centre, the meagre number of NGOs working in the centre, and the low quality of the support they received from the NGO operating there. They were also afraid of how their life will look like when they leave the centre.³¹¹

³⁰³ W. Goszczyński, R. Baczyński-Sielaczek, J. Suchomska, J. Stankowska and M. Wróblewski. 'Lokalne systemy integracji uchodźców – badania' in Fundacja EMIC and Pracownia Zrównoważonego Rozwoju, *Wielogłos. Integracja uchodźców w polskich gminach*, 2016, available (in Polish) at: <https://bit.ly/31uBLiE>, 63, 67.

³⁰⁴ A. Garbolińska, 'Rodzaje ośrodków dla osób w procedurze uchodźczej w Polsce', 2022, available in Polish here: <https://bit.ly/3ziK8zR>.

³⁰⁵ See Lukaszewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', *International Migration* Vol. 55 (6) 2017, 61.

³⁰⁶ M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szałańska, 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 43-45, 60-61.

³⁰⁷ See i.a. W. Goszczyński, R. Baczyński-Sielaczek, J. Suchomska, J. Stankowska and M. Wróblewski. 'Lokalne systemy integracji uchodźców – badania' in Fundacja EMIC and Pracownia Zrównoważonego Rozwoju, *Wielogłos. Integracja uchodźców w polskich gminach* (2016), available (in Polish) at: <https://bit.ly/31uBLiE>, 64.

³⁰⁸ Information provided by the Office for Foreigners, 3 February 2023.

³⁰⁹ HFHR, Input to the EUAA's Asylum Report, February 2023, available in English here: https://hfhr.pl/upload/2023/02/euaa_raport_2022.pdf, 8. See also ECRE, 'Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers', April 2023, available here: <https://bit.ly/41hGgdJ>, 22.

³¹⁰ Information provided by the Office for Foreigners, 26 January 2021.

³¹¹ Information provided by the Office for Foreigners, 3 February 2023.

In every centre, there are two kinds of staff: employees of the Office for Foreigners and other employees (as kitchen aids, cleaners etc.). As of December 2022, there were 26 employees of the Office for Foreigners working in all the centres and a variable number of other workers.³¹² Staff in the centre is working from Monday to Friday from 7:00 to 18:00. They are mainly responsible for the administration of the centre, not for social work with asylum seekers. The number of employees of the Office for Foreigners and the scope of their responsibilities are considered insufficient.³¹³ At night and on weekends only guards are present in the centre. Security staff is available in all centres around the clock.

2.2. Activities in the centres

Polish language courses are organised in all reception centres, both for children and adults. Those courses are considered the only integration activity provided by the Office for Foreigners.³¹⁴ See more in [Access to Education](#).

In 2022, NGOs carried out some projects in the centres which aimed at providing:

- Legal assistance – provided in the reception centres, in the NGOs' premises and remotely;
- Pre-integration activities, which were mostly aimed at children and young people (both education and leisure). Some activities were also addressed to adults, including Polish classes, employment counselling, psychological counselling and humanitarian assistance.³¹⁵

Four centres have libraries and all centres have internet access.³¹⁶

In all centres, there is a special room designed for religious practices. If asylum seekers want to participate in religious services outside of the centre, they have such a right, although in practice the remoteness from the closest place of worship can prevent them from participating in such services.

C. Employment and education

1. Access to the labour market

Indicators: Access to the Labour Market

- | | |
|---|---|
| 1. Does the law allow for access to the labour market for asylum seekers? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| ❖ If yes, when do asylum seekers have access to the labour market? | 6 months |
| 2. Does the law allow access to employment only following a labour market test? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| 3. Does the law only allow asylum seekers to work in specific sectors? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ If yes, specify which sectors: | |
| 4. Does the law limit asylum seekers' employment to a maximum working time? | <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No |
| ❖ If yes, specify the number of days per year | |
| 5. Are there restrictions to accessing employment in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

³¹² Information provided by the Office for Foreigners, 3 February 2023.

³¹³ See also SIP, 'Raport nt. przeciwdziałania przemocy wobec kobiet i przemocy domowej', 16 September 2021, available in Polish at: <https://bit.ly/3tyl04y>, mentioning that employees in the reception centres are not social workers and they are not prepared to work with vulnerable persons such as victims of domestic violence. See also M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szałańska 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 64-65.

³¹⁴ W. Goszczyński, R. Baczyński-Sielaczek, J. Suchomska, J. Stankowska and M. Wróblewski. 'Lokalne systemy integracji uchodźców – badania' in Fundacja EMIC and Pracownia Zrównoważonego Rozwoju, *Wielogłos. Integracja uchodźców w polskich gminach*, 2016, available (in Polish) at: <https://bit.ly/31uBLiE>, 69.

³¹⁵ Information provided by the Office for Foreigners, 3 February 2023; Office for Foreigners, 'Handbook of the Department of Social Assistance', 2022, available at: <http://bit.ly/3UdCDUB>.

³¹⁶ Information provided by the Office for Foreigners, 3 February 2023.

The law allows for access to the labour market for asylum seekers after six months from the date of submission of an asylum application if a final decision has not been taken within this time and if the delay is not attributed to any fault of the asylum seeker. The Head of the Office for Foreigners upon the asylum seeker's request, issues a certificate, which accompanied by a temporary ID document entitles the asylum seeker to work in Poland.³¹⁷ The temporary ID document is valid for 90 days and can be subsequently prolonged for renewable periods of 6 months. The certificate is valid until the day the decision concerning international protection becomes final.³¹⁸ However, in practice, if an asylum seeker seeks judicial remedy and the court suspends the enforcement of the negative asylum decision, the certificate regains its validity.³¹⁹

In practice, the issuance of the above-mentioned certificate is not often requested. Most probably it results from the fact that the asylum proceedings often last shorter than 6 months, or the asylum seekers leave Poland before they can access the labour market, or they have no knowledge that they can work in Poland after 6 months. Moreover, there is a relatively high percentage of refusals in this regard. According to the Office for Foreigners, asylum seekers tend to apply for a certificate too early (before 6 months have passed) or too late (the final asylum decision is delivered before the decision on the certificate is reached).³²⁰

Access to employment is not limited to certain sectors but can be problematic in practice. Many employers do not know, that the above-mentioned certificate with a temporary ID document gives an asylum seeker a right to work or do not want to employ a person for such a short time (i.e. up to 6 months, as the employers are unaware that the procedure may actually take longer than the validity of a single temporary ID document), which causes that those certificates have no practical significance.³²¹ Moreover, the certificate is valid until the asylum decision becomes final, but employers are not informed that such a decision was issued by the Polish authorities, they must trust that the asylum seekers will inform them about it on time.³²² Furthermore, asylum seekers often live in centres which are located far away from big cities and in areas with a high level of poverty and unemployment in general, which makes it difficult to find a job in practice. Additionally, most asylum seekers do not speak Polish well enough to obtain a job in Poland.³²³ Asylum seekers also face the problem of limited recognition of education and skills acquired outside the country,³²⁴ so they are often employed in positions that do not reflect their professional background. Moreover, foreigners endure discrimination in employment, e.g. they are offered lower salaries than Polish nationals.

Furthermore, even receiving the above-mentioned certificate may be in some circumstances problematic. Asylum seekers who reach the age of majority during asylum proceedings initiated and continued by their parents, and who declare that they do not wish to apply for asylum separately, are denied the right to

³¹⁷ Article 35 Law on Protection.

³¹⁸ Article 35 (3) Law on Protection. The Refugee Board's decision is final. If an asylum seeker does not appeal against the decision of the Office for Foreigners, the latter becomes final 14 days following notification of such decision.

³¹⁹ Information provided by the Office for Foreigners, 4 March 2021.

³²⁰ M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szałańska, 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 55.

³²¹ W. Klaus, 'Rozwiązania prawne stosowane w odniesieniu do osób starających się o ochronę w Polsce' in A. Górny, H. Grzymała-Moszczyńska, W. Klaus and S. Łodziński, *Uchodźcy w Polsce. Sytuacja prawna, skala napływu i integracja w społeczeństwie polskim oraz rekomendacje*, PAN 2017, available (in Polish) at: <http://bit.ly/2DVccfr>, 23.

³²² M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szałańska, 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 82-83.

³²³ Lukaszewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', *International Migration* Vol. 55 (6) 2017, 61, 66. See also M. Pawlak, 'Zatrudnienie' in A. Górka, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce*, Instytut Spraw Publicznych 2019, 35.

³²⁴ The persisting problem with the recognition of non-EU education and qualifications was confirmed and criticized by the Supreme Audit Office in 2021, see Supreme Audit Office, 'Uznawanie kwalifikacji zawodowych cudzoziemców spoza Unii Europejskiej', April 2021, available in Polish at: <https://bit.ly/35AcZ7g>.

work. In order to receive such a certificate, they have to initiate asylum proceedings separate from their parents, which is criticised by the NGOs.³²⁵

Experts point out that the fact that asylum seekers cannot work for the first 6 months of the asylum procedure is one of the factors which leads to their lack of independence and reliance on social assistance.

2. Access to education

Indicators: Access to Education

- | | |
|--|---|
| 1. Does the law provide for access to education for asylum-seeking children? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |
| 2. Are children able to access education in practice? | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No |

All children staying in Poland have a constitutional right to education. Education is mandatory until the age of 18. It is provided to asylum-seeking children in regular schools and it is not limited by law. Asylum seekers benefit from education in public schools under the same conditions as Polish citizens until the age of 18 or the completion of higher school.³²⁶ In September 2022, 912 asylum-seeking children attended 231 public schools and kindergartens in Poland. 226 of them lived in the reception centres, mostly in **Białystok, Łuków and Bezwola**.³²⁷

There are various obstacles to accessing education in practice.³²⁸ The biggest problem is a language and cultural barrier. However, asylum-seeking children are supported by:

- Polish language courses that are organised in all reception centres;
- Additional free Polish language classes should be organised by the authority managing the school that asylum seekers are attending. Those classes are organised for a maximum period of 24 months (changed since 1 September 2022, beforehand no time limit was provided for in the law)³²⁹ not less than 2 hours a week but max. five hours per week for one child;
- Basic supplies that are necessary for learning Polish.³³⁰

Asylum-seeking children can also participate in compensatory classes:

- in reception centres;
- in schools – assistance granted for a maximum of twelve months, max. five hours per week for one child.³³¹

According to the Office for Foreigners, in 2022, 434 children were supported in the reception centres in learning Polish by assisting them with homework and compensatory classes. Moreover, 145 children who were about to start school or already started it, took part in the preparatory classes.³³²

Overall, Polish language and compensatory classes in schools are considered insufficient. They are either not organised at all or organised for an insufficient amount of time (both the limitation of the duration of

³²⁵ O. Dobrowolska, 'Zaświadczenie uprawniające do wykonywania pracy dla pełnoletnich dzieci wnioskodawcy' in SIP, *SIP w działaniu. Prawa cudzoziemców w Polsce w 2018 r.*, 2019, available (in Polish) at: <https://bit.ly/39b6qUZ>, 21-22.

³²⁶ Article 165 (1) and (2) of Law of 14 December 2016 on education.

³²⁷ Information provided by the Office for Foreigners, 3 February 2023; Office for Foreigners, 'Dzieci w procedurze uchodźczej rozpoczynają nowy rok szkolny', 1 September 2022, available in Polish here: <https://bit.ly/3MTmNfZ>.

³²⁸ Some problems with late enrollment to schools were reported, see M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szałańska, 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 73-74.

³²⁹ Article 165 (7) of Law of 14 December 2016 on education.

³³⁰ Article 71(1)(1f) Law on Protection.

³³¹ Article 165 (10) of Law of 14 December 2016 on education.

³³² Information provided by the Office for Foreigners, 3 February 2023.

the support and to 5 hours a week are being criticised). Moreover, they are not adapted to the individual needs of foreign pupils.³³³

Children have also a right to assistance of a person who knows the language of their country of origin, who can be employed as a teacher's assistant by the director of the school.³³⁴ This help is limited to a maximum of twelve months, which is considered not enough.³³⁵ There is no uniform system of providing this assistance: in some schools, the assistant accompanies foreign pupils at all times, while in others he or she is only available by phone or with regard to particular issues.³³⁶ The profession is not standardized, the assistant's status and duties are unclear and it is vague what qualifications should be expected from the assistants.³³⁷ Moreover, the remuneration of such assistants is too low.³³⁸ Despite that, finding financing in order to employ the assistant is difficult for some schools.³³⁹ Thus, some NGOs cover the assistant's remuneration in the framework of their projects. However, such support is dependent on the NGOs' funding. Overall, teacher's assistants hired in schools are insufficient in numbers (in 2021, it was estimated that there were 60-70 persons in the whole country for all foreign children, not only asylum-seeking ones).³⁴⁰ In March 2022, this number has risen to approx. 150, but it includes assistants hired to support children displaced from Ukraine (see [TP: Access to education](#)).³⁴¹

Furthermore, asylum-seeking children should receive the allowance 'Good start' (300 PLN or around 64 Euros) that according to the law should be granted once a year for every child that begins a school year in Poland. However, SIP informs that asylum seekers have problems with receiving this support.³⁴² In 2020, the Supreme Administrative Court confirmed that asylum-seeking children should have access to the 'Good start' allowance. However, in each single case court proceedings must be initiated for an asylum-seeking child to have a chance to receive such allowance.³⁴³ SIP continuously highlights that access to the 'Good start' allowance is still very difficult for asylum seekers.³⁴⁴

Schools admitting foreign children often have to cope with a lack of sufficient financial means to organise proper education for this special group of pupils. Moreover, teachers working with foreign children are not

³³³ J. Kościółek, 'Children with Migration Backgrounds in Polish Schools – Problems and Challenges', *Annales Series Historia et Sociologia* 30, 2020, 4, available at: <https://bit.ly/3vBdl8j>, 607. Cf. K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', *Multilevel Governance of Mass Migration in Europe and Beyond Project* (#770564, Horizon2020), available at: <http://bit.ly/3pjlXtq>, 79; Supreme Audit Office, 'Kształcenie dzieci rodziców powracających do kraju i dzieci cudzoziemców', September 2020, available (in Polish) at: <http://bit.ly/3piaNVR>.

³³⁴ Article 165 (8) of the Law of 14 December 2016 on education.

³³⁵ K. Sołtan-Kościelecka, 'Klasy powitalne. Realna szansa na poprawę warunków kształcenia cudzoziemców czy pozorne rozwiązanie?', *Biuletyn Migracyjny* no. 57, June 2018, available (in Polish) at: <http://bit.ly/2EkclF8>.

³³⁶ K. Kamler, J. Orlikowska, J. Schmidt and J. Szymańska, 'Młodzi migranci w pandemii COVID-19. Raport z badań jakościowych sytuacji uczniów cudzoziemskich w warszawskich szkołach', 2021, available in Polish at: <https://bit.ly/3HIZLC8>, 13.

³³⁷ J. Kościółek, 'Children with Migration Backgrounds in Polish Schools – Problems and Challenges', *Annales Series Historia et Sociologia* 30, 2020, 4, available at: <https://bit.ly/3vBdl8j>, 607-608.

³³⁸ K. Sołtan-Kościelecka, 'Klasy powitalne. Realna szansa na poprawę warunków kształcenia cudzoziemców czy pozorne rozwiązanie?', *Biuletyn Migracyjny* no. 57, June 2018, available (in Polish) at: <http://bit.ly/2EkclF8>.

³³⁹ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', *Multilevel Governance of Mass Migration in Europe and Beyond Project* (#770564, Horizon2020), available at: <http://bit.ly/3pjlXtq>, 70; K. Potoniec, 'Comparative analysis of instruments supporting the integration of pupils under international protection in the educational systems of the Czech Republic, Poland and Hungary', December 2021, available at: <https://bit.ly/3sHaxVq>, 15.

³⁴⁰ K. Potoniec, 'Comparative analysis of instruments supporting the integration of pupils under international protection in the educational systems of the Czech Republic, Poland and Hungary', December 2021, available at: <https://bit.ly/3sHaxVq>, 12, 15.

³⁴¹ A. Mikulska, 'Lekcje polskiego to nie wszystko. Jak zadbać o integrację dzieci z Ukrainy?', OKO.PRESS, 21 March 2022, available in Polish here: <https://bit.ly/3HneXI5>.

³⁴² M. Sadowska, 'Świadczenia 'Dobry start' in SIP, *Prawa cudzoziemców w Polsce w 2019 roku. Raport*, 2020, available (in Polish) at: <https://bit.ly/3jT7weM>, 68.

³⁴³ SIP, 'Wyrok NSA: świadczenie Dobry Start („300+”) przysługuje osobom ubiegającym się o ochronę międzynarodową', 11 sierpnia 2020, available (in Polish) at: <https://bit.ly/37bWxb8>.

³⁴⁴ M. Sadowska, 'Świadczenie dobry start 300+' in SIP, *Prawa cudzoziemców w Polsce w 2020 roku. Raport*, 2021, available in Polish at: <https://bit.ly/3sGmIXS>, 78-80. See also SIP, *Prawa cudzoziemców w Polsce w 2021 roku. Raport*, 2022, available in Polish at: <https://bit.ly/3zmp637>, 24.

receiving sufficient support, like courses and materials.³⁴⁵ However, some training initiatives are taken up by local and governmental authorities as well as NGOs.³⁴⁶

If a child cannot enter the regular education system e.g. due to illness, their special needs are supposed to be addressed in a special school. At the end of 2022, 5 asylum-seeking children were attending a special school.³⁴⁷

NGOs inform that asylum seekers most often complain about the hate speech that their children encounter in school, both from their peers and the staff. The Supreme Audit Office informed in 2020 that 23% parents that they interviewed declared that their children have met with intolerance in school once or twice a year, according to 4% of respondents it was occurring often.³⁴⁸ Recent research on the matter was not available at the time of writing.

To sum up, the current education system does not take into account the special needs of foreign children. As a result, the adaptation of the education programme to the needs and abilities of the individual child is dependent on the goodwill and capacity of teachers and directors. Moreover, as a factor impeding effective teaching, schools also report the problem of the big fluctuation of the foreign children as a result of families' migration to Western Europe. Consequently, asylum-seeking and refugee children are disappearing from the Polish education system.³⁴⁹

In 2022, the large influx of Ukrainian pupils additionally strained and challenged the Polish educational system (see [Temporary Protection, Access to education](#)).³⁵⁰

For information about the impact of Covid-19 on the education of asylum seekers, please see the 2021 update to this report.³⁵¹

1.1. Preparatory classes

Since 2016, schools have a possibility to organise preparatory classes³⁵² for foreign children who do not have sufficient knowledge of the Polish language, including asylum seekers. A foreign minor can join preparatory classes anytime during the school year. After the end of the school year, his participation in those classes can be prolonged, when needed, for maximum one more year. The preparatory classes last for 20-26 hours a week. If a school decides to organise such classes, foreign children are not obliged to participate in regular classes. In March 2022, the number of maximum pupils in a preparatory class

³⁴⁵ See *inter alia* Ministry of Interior and Administration, *Polityka migracyjna Polski – diagnoza stanu wyjściowego*, available in Polish at: <http://bit.ly/377T5Ov>, 40; Supreme Audit Office, 'Kształcenie dzieci rodziców powracających do kraju i dzieci cudzoziemców', September 2020, available (in Polish) at: <http://bit.ly/3piaNVR>.

³⁴⁶ Fundacja EMIC, 'Przyjazna szkoła – integracja i edukacja', 28 December 2022, available in Polish here: <https://bit.ly/3NWcbxA>; Ministry of Education, 'Nauka dzieci przybywających z zagranicy w polskim systemie edukacji', available (in Polish) at: <https://bit.ly/31KtYOC>; information confirmed by the Ministry of Education and Science, 26 January 2022. See also K. Potoniec, 'Comparative analysis of instruments supporting the integration of pupils under international protection in the educational systems of the Czech Republic, Poland and Hungary', December 2021, available at: <https://bit.ly/3sHaxVq>, 13.

³⁴⁷ Information from the Office for Foreigners, 3 February 2023.

³⁴⁸ Supreme Audit Office, 'Kształcenie dzieci rodziców powracających do kraju i dzieci cudzoziemców', September 2020, available (in Polish) at: <http://bit.ly/3piaNVR>. See also J. Kościółek, 'Children with Migration Backgrounds in Polish Schools – Problems and Challenges', *Annales Series Historia et Sociologia* 30, 2020, 4, available at: <https://bit.ly/3vBdl8j>, 604.

³⁴⁹ Institute of Public Affairs, *Analiza przygotowania lokalnych instytucji do przyjęcia uchodźców z programu relokacji i przesiedleń. Raport końcowy z badań fokusowych*, 2016, available (in Polish) at: <http://bit.ly/2GBfKr4>, 57-62; Iglicka, Krystyna, 'Chechen's Lesson. Challenges of Integrating Refugee Children in a Transit Country: A Polish Case Study', *Central and Eastern European Migration Review*, Vol. 6, No. 2, 2017, available at: <http://bit.ly/2GPiKiV>, 123, 130.

³⁵⁰ See e.g. SIP, Submission to ECRI, 15 June 2022, available in English here: <https://bit.ly/3zmaGAb>, 3-4.

³⁵¹ AIDA, *Country Report Poland – 2021 Update*, May 2022, available at: <https://bit.ly/3ZydJ2R>.

³⁵² See Article 165(11-14) of the Law of 14 December 2016 on education and Para 16 Ordinance of the Ministry of National Education of 23 August 2017 on education of persons without Polish citizenship and Polish citizens who learned in schools in other countries (*w sprawie kształcenia osób niebędących obywatelami polskimi oraz osób będących obywatelami polskimi, które pobierały naukę w szkołach funkcjonujących w systemach oświaty innych państw*).

was raised from 15 to 25 minors and the minimum number of hours for learning the Polish language during a week was increased from 3 to 6 hours.³⁵³

Preparatory classes have been criticized since their introduction into the Polish education system. Some of the main points of criticism are mentioned below. Firstly, children are placed exclusively in foreign classes, thus impeding their integration into Polish society and fuelling separation.³⁵⁴ Secondly, the preparatory classes were not designed as 'welcome classes' which have their own program, separate from the regular classes and adapted to foreign minors' needs.³⁵⁵ Thirdly, teachers are obliged to implement the same curriculum in the preparatory classes as in the regular ones, the only difference is that all children in a class are foreign and a teacher can adapt his method of teaching to their special needs.³⁵⁶ Meanwhile, the program of such classes should concentrate on learning Polish.³⁵⁷ Moreover, one preparatory class can be organised for children of different ages (e.g. children who qualify for primary school grades I to III can be grouped together in a preparatory class), which means that a teacher may be obliged to implement the curriculum even for three grades at once.³⁵⁸ Lastly, experts point out that there is no system which would prepare teachers to work in preparatory classes with foreigners.³⁵⁹

For information on access to education for Ukrainian children, see [TP: Access to education](#).

1.2. Kindergarten

In 2022, in all of the reception centres, except in **Biała Podlaska**, some form of kindergarten was organised, which is sometimes supported by NGOs. This daycare is provided minimum 5 times a week for 5 hours a day.³⁶⁰

1.3. Educational activities for adults

There is no access to vocational training for asylum seekers provided under the law. It is considered 'one of the biggest shortcomings of the reception system in the area of education'.³⁶¹

The only educational activities that adults have constant access to are Polish language courses organised in all centres. They are open both for asylum seekers living in the centre and outside. Additionally, Polish language classes for adults are organised in Warsaw for those asylum seekers who receive a financial

³⁵³ Para 16(2) and (9) Ordinance of the Ministry of National Education of 23 August 2017 on education of persons without Polish citizenship and Polish citizens who learned in schools in other countries (*w sprawie kształcenia osób niebędących obywatelami polskimi oraz osób będących obywatelami polskimi, które pobierały naukę w szkołach funkcjonujących w systemach oświaty innych państw*). The limitation to 3 hours per week was criticized, see e.g. K. Sołtan-Kościelecka, 'Klasy powitalne. Realna szansa na poprawę warunków kształcenia cudzoziemców czy pozorne rozwiązanie?', Biuletyn Migracyjny no. 57, June 2018, available (in Polish) at: <http://bit.ly/2EkclF8>.

³⁵⁴ Commissioner for Human Rights, *Posiedzenie Komisji Ekspertów ds. Migrantów*, 12 December 2016, available (in Polish) at: <http://bit.ly/2odhX16>. See also K. Kamler, J. Orlikowska, J. Schmidt and J. Szymańska, 'Młodzi migranci w pandemii COVID-19. Raport z badań jakościowych sytuacji uczniów cudzoziemskich w warszawskich szkołach', 2021, available in Polish at: <https://bit.ly/3HIZLC8>, 25-27.

³⁵⁵ K. Sołtan-Kościelecka, 'Klasy powitalne. Realna szansa na poprawę warunków kształcenia cudzoziemców czy pozorne rozwiązanie?', Biuletyn Migracyjny no. 57, June 2018, available (in Polish) at: <http://bit.ly/2EkclF8>.

³⁵⁶ K. Wójcik, 'Więcej cudzoziemców w szkołach', 11 September 2019, available (in Polish) at: <https://bit.ly/2vgizth>; Supreme Audit Office, 'Kształcenie dzieci rodziców powracających do kraju i dzieci cudzoziemców', September 2020, available (in Polish) at: <http://bit.ly/3piaNVR>, 47-48.

³⁵⁷ M. Koss-Goryszewska, 'Edukacja' in A. Górka, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce*, Instytut Spraw Publicznych 2019, 50-51.

³⁵⁸ J. Kościółek, 'Children with Migration Backgrounds in Polish Schools – Problems and Challenges', *Annales Series Historia et Sociologia* 30, 2020, 4, available at: <https://bit.ly/3vBdl8j>, 607.

³⁵⁹ M. Koss-Goryszewska, 'Edukacja' in A. Górka, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce*, Instytut Spraw Publicznych 2019, 51.

³⁶⁰ Information from the Office for Foreigners, 26 January 2021, 26 January 2022 and 3 February 2023.

³⁶¹ M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szalańska, 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 82.

allowance and do not live in a reception centre. In 2022, there was also a possibility to learn Polish online.³⁶²

The Polish language course's level is considered insufficient by some NGOs, even if the attendees generally evaluated such classes positively.³⁶³

The Office for Foreigners indicated that asylum seekers actively participate in Polish language lessons. In total, 665 adults attended such courses in 2022.³⁶⁴ However, these numbers seem meagre when the overall number of asylum seekers is taken into account. The earlier research showed that the low participation rate results, among others, from the fact that asylum seekers are not willing to stay in Poland or are aware that the chances for obtaining international protection in Poland are small so they are not motivated to learn the local language. The time of language classes is also not adapted to the needs of working asylum seekers.³⁶⁵ Another research showed that asylum seekers were unwilling to attend classes, *inter alia*, due to traumatic experiences from the country of origin or the lack of childcare.³⁶⁶

Other courses in the centres, including vocational training and integration activities, are organised by NGOs.³⁶⁷

D. Health care

Indicators: Health Care

1. Is access to emergency healthcare for asylum seekers guaranteed in national legislation?
☒ Yes ☐ No
2. Do asylum seekers have adequate access to health care in practice?
☐ Yes ☒ Limited ☐ No
3. Is specialised treatment for victims of torture or traumatised asylum seekers available in practice?
☐ Yes ☒ Limited ☐ No
4. If material conditions are reduced or withdrawn, are asylum seekers still given access to health care?
☒ Yes ☐ Limited ☐ No

Access to health care for asylum seekers is guaranteed in law under the same conditions as for Polish nationals who have health insurance.³⁶⁸ Health care for asylum seekers is publicly funded. If an asylum seeker is deprived of material reception conditions or they are limited, they are still entitled to health care.³⁶⁹

Basic health care is organised in medical offices within each of the reception centres. The Office for Foreigners informed that in 2022 the GP in the centres had 6 duty hours per 120 asylum seekers, while the nurse had 20 hours for the same number of possible patients. Both had 3 hours a week extra for every additional 50 asylum seekers. They were present in the centres at least three times a week. Additionally, in every centre, the duty hours of a paediatrician were organised at least for 4 hours a week per 50 children, with extra 2 hours of duty for every additional 20 children. A paediatrician was present in the centres at least 2 days a week.³⁷⁰

³⁶² Information from the Office for Foreigners, 3 February 2023. Office for Foreigners, 'Handbook of the Department of Social Assistance', 2022, available at: <http://bit.ly/3UdCDUB>.

³⁶³ R. Baczyński-Sielaczek, *Język polski w ośrodkach. Wyniki badania ewaluacyjnego*, Instytut Spraw Publicznych 2016, 19-22; information from the Office for Foreigners, 3 February 2023.

³⁶⁴ Information from the Office for Foreigners, 3 February 2023.

³⁶⁵ R. Baczyński-Sielaczek, *Język polski w ośrodkach. Wyniki badania ewaluacyjnego*, Instytut Spraw Publicznych 2016, 34.

³⁶⁶ M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szalańska, 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 78-80.

³⁶⁷ Information from the Office for Foreigners, 3 February 2023.

³⁶⁸ Article 73(1) Law on Protection.

³⁶⁹ Articles 76(1) and 70(1) Law on Protection.

³⁷⁰ Information provided by the Office for Foreigners, 3 February 2023.

Health care for asylum seekers includes treatment for persons suffering from mental health problems. In 2022, psychologists worked in all centres for at least 4 hours a week for every 120 asylum seekers. This was extended to 1 hour for every additional 50 asylum seekers.³⁷¹ Asylum seekers can also be directed to a psychiatrist or a psychiatric hospital. In 2022, according to the Office for Foreigners, psychological support was provided by an NGO - Fundacja Polskie Forum Migracyjne.³⁷²

The psychological assistance in the reception centres is limited to basic consultations.³⁷³ Some asylum seekers consider psychologists working in the centre as not neutral enough as they are employed (indirectly) by the Office for Foreigners.³⁷⁴ Furthermore, according to some experts and many NGOs, specialised treatment for victims of torture or traumatised asylum seekers is not available in practice.³⁷⁵ NGOs still point to the lack of proper treatment of persons with PTSD. The available psychological assistance is considered an intervention, not a regular therapy. There is a shortage of psychologists prepared to work with vulnerable and traumatized asylum seekers.³⁷⁶ Moreover, there are not enough specialised NGOs that provide psychological consultations and treatment to asylum seekers.³⁷⁷

Medical assistance is provided by the private contractor Petra Medica, with whom the Office for Foreigners has signed an agreement to coordinate medical care for asylum seekers. The Office for Foreigners monitors the application of this agreement. The quality of medical assistance provided under this agreement has triggered wide criticism.³⁷⁸ In particular, access to specialised medical care worsened³⁷⁹ and some asylum seekers are refused access to more costly treatments. Sometimes, only after NGOs' interventions and months of fighting for access to proper medical treatment, asylum seekers were able to receive it. Several cases of refusals of medical treatment, drawing from the SIP's yearly reports, have been described in the previous AIDA reports.³⁸⁰ The above-mentioned issues were also reported in 2022.

One of the biggest obstacles in accessing health care that asylum seekers face is the lack of intercultural competence and knowledge of foreign languages among doctors and nurses.³⁸¹ Petra Medica which is responsible for the provision of medical assistance to asylum seekers is also obliged to ensure interpretation during the medical and psychological consultations, if it is needed. However, NGOs have been expressing concerns regarding the availability and quality of the interpretation provided to asylum seekers in connection with medical consultations. In particular, it is reported that asylum seekers who are not speaking Polish, English or Russian face great difficulties with being provided with medical assistance

³⁷¹ *ibid.*

³⁷² Information provided by the Office for Foreigners, 3 February 2023. See the PFM website: [Polskie Forum Migracyjne](https://polskieforummigracyjne.pl/).

³⁷³ See Pachocka, M. and Sobczak-Szelc K., 'Refugee Protection Poland – Country Report', Multilevel Governance of Mass Migration in Europe and Beyond Project (Horizon2020), January 2020, available at: <https://bit.ly/2U1A9uL>, 70. The Office for Foreigners claims that those psychologists' assistance concentrates on psychological support and counselling and also on diagnosis of mental disorders, including PTSD.

³⁷⁴ M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szalańska, 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 71.

³⁷⁵ See e.g. M. Szczepanik, *Right to healthcare and access to medical services for asylum seekers and beneficiaries of international protection in Poland*, May 2017, available at: <http://bit.ly/2CxXokd>. See also Małgorzata Jaźwińska and Magdalena Sadowska, 'Osoby, które doświadczyły przemocy', in SIP, *Prawa cudzoziemców w Polsce w 2019 roku. Raport*, 2020, available in Polish at: <https://bit.ly/3jT7weM>, 13-14, pointing out that persons who were subject to violence are not properly identified.

³⁷⁶ Pachocka, M. and Sobczak-Szelc K., 'Refugee Protection Poland – Country Report', Multilevel Governance of Mass Migration in Europe and Beyond Project (Horizon2020), January 2020, available at: <https://bit.ly/2U1A9uL>, 71.

³⁷⁷ M. Szczepanik, *Right to healthcare and access to medical services for asylum seekers and beneficiaries of international protection in Poland*, May 2017, available at: <http://bit.ly/2CxXokd>

³⁷⁸ See e.g. HFHR, Input to the EUAA's Asylum Report, February 2023, available in English here: <https://bit.ly/3VgXwOZ>, 9.

³⁷⁹ M. Pachocka, K. Pędziwiatr, K. Sobczak-Szelc, J. Szalańska, 'Reception Policies, Practices and Responses: Poland Country Report', 2020, RESPOND Working Papers 2020/45, available at: <http://bit.ly/3jLCvsV>, 70.

³⁸⁰ See AIDA, Country Report Poland – 2021 Update, May 2022, available at: <https://bit.ly/3ZydJ2R>.

³⁸¹ M. Koss-Goryszewska, 'Służba zdrowia' in A. Górski, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce*, Instytut Spraw Publicznych 2019, 43.

(they cannot make the needed appointments as the helpline is available only in English and Russian, and they cannot understand a doctor during the appointment, etc.).³⁸²

Another challenge is the fact that some clinics and hospitals providing medical assistance to asylum seekers are located far away from the reception centres, so an asylum seeker cannot be assisted by the closest medical facility, except for emergencies. The Office for Foreigners noticed that for those asylum seekers living outside the reception centres health care is provided in voivodeship cities in Poland and that coordination of visits is conducted by the Petra Medica helpline, where the asylum seeker can learn about the time of the visit and ways to get the prescription.

In 2022, 26 complaints about medical assistance were registered (including a couple of complaints repeatedly submitted by the same asylum seekers).³⁸³ They concerned *inter alia*:

- Long waiting times for the specialist consultation,
- Problems with the hospital treatment coverage (wrongly filled hospital invoices),
- Doctors and nurses providing medical assistance.

SIP informs that it regularly receives complaints about the Petra Medica's functioning and in practice, many asylum seekers give up their right to medical assistance during asylum proceedings due to the problems they had with accessing health care designed for them.³⁸⁴

The COVID-19 pandemic impacted significantly the medical assistance for asylum seekers in the years 2020-2021. Asylum seekers had access to testing and vaccinations, albeit some difficulties were also reported in this regard.³⁸⁵

Polish-Belarusian border

The humanitarian crisis at the Polish-Belarusian border that started in August 2021 and continued throughout 2022 left many prospective asylum seekers without access to material reception conditions, including medical assistance (see [Access to the territory and pushbacks](#)). In those circumstances, medical assistance was mostly provided by NGOs, activists and groups of doctors. However, its scope and effectiveness were greatly limited after the introduction of the emergency state and afterwards other measures that excluded access of NGOs, activists and medical staff to some areas near the Polish-Belarusian border. On 1 July 2022, after 301 days, the scope of the prohibition of mobility in the near-border area was changed – the area affected is since then much smaller (only 200 m from the border, instead of 3 km). It allowed persons providing medical assistance to have access to more ill and injured persons that crossed the Polish-Belarusian border. In 2023, the closed near-border area was limited to 15 m from the border.³⁸⁶

Foreigners crossing the Polish-Belarusian border often required medical assistance, in particular in winter. They were starved, dehydrated, freezing (some with hypothermia), suffering from food poisoning, beaten up by – according to their accounts – Polish or Belarusian officers, and with other injuries, *inter alia* foot and leg injuries resulting walking barefoot or climbing through a wired fence.³⁸⁷

³⁸² A. Chrzanowska, 'Dostęp do leczenia osób ubiegających się o ochronę międzynarodową' in SIP, *Prawa cudzoziemców w Polsce w 2020 roku. Raport*, 2021, available in Polish at: <https://bit.ly/3sGmlXS>, 74-75. See also HFHR, Input to the EUAA's Asylum Report, February 2023, available in English here: <https://bit.ly/44EE82F>, 9.

³⁸³ Information provided by the Office for Foreigners, 3 February 2023.

³⁸⁴ A. Chrzanowska, 'Dostęp do leczenia osób ubiegających się o ochronę międzynarodową' in SIP, *Prawa cudzoziemców w Polsce w 2020 roku. Raport*, 2021, available in Polish at: <https://bit.ly/3sGmlXS>, 74.

³⁸⁵ For more information see AIDA, Country Report Poland – 2021 Update, May 2022, available at: <https://bit.ly/3ZydJ2R>.

³⁸⁶ ECRE, Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers, April 2023, available here: <https://bit.ly/41hGgdJ>, 14.

³⁸⁷ See e.g. M.J. Pietrusińska, N. Gebert, 'Leczymy uchodźców. Raport oparty na relacjach pracowników przygranicznych placówek służby zdrowia', December 2021, available in Polish at: <https://bit.ly/3sFrOhQ>, 15.

In 2022, a special fence was built at the Polish-Belarusian border. It is 5.5 m high and it is topped with razor wire.³⁸⁸ The new fence did not stop third-country nationals from crossing this border but contributed greatly to their increased suffering.³⁸⁹ As reported by Grupa Granica, many persons suffered injuries while climbing and coming off the fence, including fractures of the bones. Crossing the border through swamps, wetlands and rivers (paths that are now used more despite the risk due to the construction of the fence) increased the risk of drownings, injuries, hypothermia and – in consequence – death. At least 6 persons drowned at the Polish-Belarusian border.³⁹⁰ The ambulances were rarely called for by Grupa Granica since the Border Guard has been known to take third-country nationals from hospitals and push them back to Belarus.³⁹¹ In consequence, in the second part of the year, an increasing number of interventions of Grupa Granica required providing professional medical assistance.³⁹²

One blood-curdling example of the dangers that the fence created and of the indifference of the Polish authorities is the case of a man stuck on the wall in October 2022. His leg got tangled up in the wire and he was hanging head-down 5 meters above the ground. The Polish army watched and mocked the person but did not offer the man any assistance. They only photographed and recorded the event. Eventually, the man fell down.³⁹³ His fate afterwards is unknown.

Between August 2021 and March 2023, at least 40 persons died at the border.³⁹⁴ The total number of deaths is surely higher. Third-country nationals who were interviewed by HFHR and Grupa Granica said that there were bodies lying in the woods on the both sides of the Polish-Belarusian border.³⁹⁵ One of the interviewees stated that she witnessed one man dying after falling into a swamp. When she was apprehended, she tried to inform the Border Guard about the location of the body, but they did not listen. The body was found approx. one week later by a local inhabitant.³⁹⁶ In January 2023, a body of a doctor from Yemen was found in the woods near the Polish-Belarusian border. The third-country nationals that were accompanying the ill Yemeni national informed the Border Guard about his location and very bad condition. Their appeals for sending medical assistance were ignored; they were pushed back to Belarus. The Yemeni national was found only when another patrol was informed about his grave condition; however, then, he was already dead.³⁹⁷ The death of an Ethiopian woman raised particular concerns as reportedly Polish Police and Border Guard were informed by other third-country nationals about her bad medical condition, but – instead of transporting her to the hospital – they pushed her back to Belarus. The

³⁸⁸ Maciej Chołodowski, '5,5 m wysokości, 170 km długości, 50 tys. ton stali. Stał mur na granicy polsko-białoruskiej', Wyborcza.pl, 30 June 2022, available here: <http://bit.ly/3lUsyPs>.

³⁸⁹ SIP, EUAA Asylum Report CSO Input, 6 February 2023, available here: <http://bit.ly/3ZAnGga>.

³⁹⁰ C. Ciobanu, B. T. Wielński, *Mur nie zatrzyma ludzi. Wolontariuszka o sytuacji na granicy z Białorusią*, 7 April 2023, Wyborcza.pl.

³⁹¹ K. Czarnota and M. Górczyńska, *The Lawless Zone: Polish-Belarusian Border Monitoring*, HFHR, June 2022, available here: <https://bit.ly/3K206Dp>, 16; Grupa Granica, 'Situation on the Polish-Belarusian border July - October 2022', available here: <http://bit.ly/3U26AXA>, 4; Fundacja Ocalenie, 'Przemoc państwa i działania oddolne', May 2022, available here: <https://bit.ly/3JZCdwj>, 41-42; Stowarzyszenie EGALA, 'Relacja pełnomocniczki wywiezionego obywatela Syrii', 13 October 2022, available in Polish here: <http://bit.ly/3G5RrOY>. For more detailed information, see also AIDA, *Country Report Poland – 2021 Update*, May 2022, available at: <https://bit.ly/3ZydJ2R>.

³⁹² Grupa Granica, 'Situation on the Polish-Belarusian border July - October 2022', available here: <http://bit.ly/3U26AXA>, 4; and 'Situation on the Polish-Belarusian border October-November 2022. Another winter brings a threat of an increase in the number of fatalities and missing persons on the Polish-Belarusian border', 13.12.2022, available here: <http://bit.ly/40wBA4b>, 5-6.

³⁹³ SIP, EUAA Asylum Report CSO Input, 6 February 2023, available here: <http://bit.ly/3ZAnGga>; Grupa Granica, 'Situation on the Polish-Belarusian border July - October 2022', available here: <http://bit.ly/3U26AXA>, 4.

³⁹⁴ Grupa Granica, *Periodic report of Grupa Granica on the situation at the Polish-Belarusian border. December 2022-January 2023*, 10; Stowarzyszenie Egala, *W piątek 24 marca odnalezione zostało ciało 40. ofiary śmiertelnej na pograniczu polsko-białoruskim – STOWARZYSZENIE EGALA.*

³⁹⁵ Grupa Granica, *Periodic report of Grupa Granica on the situation at the Polish-Belarusian border. December 2022-January 2023*, 3; K. Czarnota and M. Górczyńska, *The Lawless Zone: Polish-Belarusian Border Monitoring*, HFHR, June 2022, available here <https://bit.ly/3K206Dp>, 18-19.

³⁹⁶ K. Czarnota and M. Górczyńska, *The Lawless Zone: Polish-Belarusian Border Monitoring*, HFHR, June 2022, available here <https://bit.ly/3K206Dp>, 18-19.

³⁹⁷ Stowarzyszenie EGALA, 'Kolejna śmierć', 14 January 2023, available in Polish here: <http://bit.ly/3Kk0MnV>.

Human Rights Commissioner is investigating this case; however, the Border Guard and Police seem to be unwilling to cooperate.³⁹⁸

In an increasing number of judgments issued in 2022 courts condemned pushbacks at the Polish-Belarusian border, also in cases concerning pushbacks from Polish hospitals. In judgment no. IV SA/Wa 615/22, the Provincial Administrative Court in Warsaw considered a case of a Syrian national who was pushed back to Belarus in November 2021 after a short stay in a Polish hospital and in spite of his pleadings for asylum. In Belarus, he was subject to violence from the Belarusian authorities forcing him to go back to Poland. A decision ordering his immediate removal was issued and challenged by the Helsinki Foundation for Human Rights' lawyer. The court annulled the decision, explaining that the Border Guard did not rigorously assess the factual situation of the foreigner, in particular, the circumstances of his arrival to Poland and his situation upon return. The court highlighted that the principle of non-refoulement still applies at the Polish-Belarusian border.³⁹⁹ A case concerning a pushback from a hospital was also communicated to the Polish government by the ECtHR in June 2022.⁴⁰⁰

Information about persons providing medical assistance at the Polish-Belarusian border has been misrepresented by the Border Guard. For example, in January 2023, on its social media, the Border Guard accused activists of refusing to reveal the location of three Afghan nationals needing medical assistance. They were dehydrated, in hypothermia, losing consciousness. According to the NGO Stowarzyszenie Egala, the information about their location was given to relevant authorities twice. Moreover, activists personally showed the firemen the way to the ill foreigners.⁴⁰¹

Some persons who had aided ill or injured foreigners at the Polish-Belarusian border were prosecuted in 2021 and 2022. In July 2022, one of the activists who had transported an ill third-country national to a hospital was acquitted. The court highlighted that providing humanitarian aid is not illegal.⁴⁰² Another activist was found guilty of insulting a policeman during the rescue action of three drowning Syrians. She showed the firemen where the foreigners were located when she saw that the authorities were looking in the wrong place. According to the activist, she was told by the firemen that the Syrian nationals were rescued in time thanks to her intervention. One of them was in hypothermia and unconscious. When the police appeared at the scene, one of the policemen felt insulted by the words of the activist. She was subsequently prosecuted and convicted with a fine (lowered on appeal).⁴⁰³ In another case, persons seeking a Syrian national in hypothermia in the border area were arrested by the Polish army and their phones and rescue equipment were seized. The court found those actions generally legal, albeit identified some procedural violations.⁴⁰⁴

E. Special reception needs for vulnerable groups

Indicators: Special Reception Needs

1. Is there an assessment of the special reception needs of vulnerable persons in practice?

☐ Yes ☒ Limited ☐ No

³⁹⁸ Human Rights Commissioner, *Śmierć młodej kobiety z Etiopii w lesie na granicy. RPO prosi o wyjaśnienia Policję i Straż Graniczną (brpo.gov.pl) and Śmierć obywatelki Etiopii przy granicy. RPO pyta policję, co zrobiła w celu jej odnalezienia i pomocy. Kolejne pismo (brpo.gov.pl)*.

³⁹⁹ HFHR, 'Wojewódzki Sąd Administracyjny w Warszawie uchylił decyzję Straży Granicznej o zawróceniu obywatela Syrii do granicy z Białorusią', 10 June 2022, available in Polish here: <http://bit.ly/3TVLkm9>.

⁴⁰⁰ Applications nos. 52405/21 and 53402/21 K.A. and M.A. and Others against Poland.

⁴⁰¹ Stowarzyszenie EGALA, 'Niezgodne z prawdą zarzuty SG', 10 January 2023, available in Polish here: <http://bit.ly/437V94P>.

⁴⁰² Stowarzyszenie EGALA, 'Sąd uniewinnił aktywistę', 20 July 2022, available in Polish here: <http://bit.ly/42SE2Uj>.

⁴⁰³ A. Jędrzejczyk, 'Na bagnie umierali ludzie, a policjant poczuł się znieważony. Proces Elżbiety Podleśnej we Włodawie' 8 lipca 2022, OKO.press, available in Polish here: <http://bit.ly/3nBW11f>; and Egala, Aktywistka winna. Wyrok w sprawie Elżbiety Podleśnej, 16 September 2022, available in Polish here: <http://bit.ly/3M6k2Ys>; Stowarzyszenie Egala, 'Saga sądowa Elżbiety Podleśnej trwa', 16 February 2023, <https://bit.ly/3LSn1C3>.

⁴⁰⁴ SIP, EUAA Asylum Report CSO Input, 6 February 2023, available here: <http://bit.ly/3ZAnGga>.

Persons who need special treatment are defined particularly as:⁴⁰⁵

1. Minors
2. Disabled people
3. Elderly people
4. Pregnant women
5. Single parents
6. Victims of human trafficking
7. Seriously ill
8. Mentally disordered people
9. Victims of torture
10. Victims of violence (psychological, psychical, including sexual).

An asylum seeker is considered a person who needs special treatment in the field of material reception conditions if there is a need to:

- ❖ Accommodate him or her in a reception centre adapted to the needs of disabled people or ensure a single room designed only for women or women with children;
- ❖ Place him or her in special medical premises (like a hospice);
- ❖ Place him or her in foster care corresponding to the psychophysical situation of the asylum seeker;
- ❖ Adapt his or her diet to his or her state of health.⁴⁰⁶

If an asylum seeker is a person who needs special treatment, his/her needs concerning accommodation and alimentation are taken into account when providing material reception conditions.⁴⁰⁷ An asylum seeker who needs special treatment should be accommodated in the reception centre by taking into account his special needs.⁴⁰⁸

The Border Guard ensures transport to the reception centre and – in justified cases – food during the transport after claiming asylum only to: disabled or elderly people, single parents and pregnant women.⁴⁰⁹ The same groups can benefit from this transport after the Dublin transfer and release from a detention centre.⁴¹⁰ Other vulnerable asylum seekers cannot benefit from organised transport, they must get to the reception centre by themselves, which is considered ‘a gap in asylum system’.⁴¹¹ In practice, the transport for disabled or elderly people, single parents and pregnant women is provided rarely (see [Criteria and restrictions to access reception conditions](#)).

Some of the reception centres are adapted to the needs of disabled asylum seekers. All the centres managed by the Office for Foreigners have a special entry for disabled foreigners and bathrooms adapted to the needs of the asylum seekers on wheelchairs. Some other centres have made minor adaptations to address their needs. There is also a provision of rehabilitation services to this group of persons. The Office for Foreigners declares that it provides transport for medical examinations and rehabilitation services as well as specialist equipment when needed.⁴¹² Despite that, the Human Rights Commissioner indicates the centre’s limited preparedness to house people with disabilities.⁴¹³

⁴⁰⁵ Article 68(1) Law on Protection.

⁴⁰⁶ Article 68(2) Law on Protection.

⁴⁰⁷ Article 69a Law on Protection.

⁴⁰⁸ Para 5(3) Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁰⁹ Article 30(1)(8) Law on Protection.

⁴¹⁰ Article 40a and Article 89cb Law on Protection.

⁴¹¹ Pachocka, M. and Sobczak-Szelc K., ‘Refugee Protection Poland – Country Report’, Multilevel Governance of Mass Migration in Europe and Beyond Project (Horizon2020), January 2020, available at: <https://bit.ly/2U1A9uL>, 73.

⁴¹² Information from the Office for Foreigners, 26 January 2022.

⁴¹³ ECRE, ‘Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers’, April 2023, available here: <https://bit.ly/41hGgdJ>, 25.

There are no separate accommodation centres for traumatised asylum seekers, or other vulnerable persons (except women, see below).

In 2022, as the Office for Foreigners stated, all persons asking to enter the reception centres to work with minors there were checked in the Sexual Offenders' Registry. None of them was identified in this registry.⁴¹⁴ Also in 2022, the special phone number – for children at risk of violence and who have suffered violence, as well as for their parents and officers witnessing acts of violence towards children – started operating. However, the telephone works only for one hour a week.⁴¹⁵ Moreover, in 2022, an NGO - Fundacja Dajemy dzieciom siłę - offered asylum-seeking parents (living outside of the reception centres) the possibility to attend 12 meetings concerning child upbringing without violence. They were organized in Warsaw in Polish, Russian and English.⁴¹⁶

1. Reception of women and children

The centre in Warsaw hosting exclusively single women or single women with children was closed in August 2021. Thus, in 2022, single women with children were accommodated in **Podkowa Leśna-Dębak** reception centre (in a separate, renovated for that purpose, building within the complex). The Office for Foreigners plans to open a new centre for single women and women with children in **Jachranka**.⁴¹⁷

The law facilitates living outside the centre for single women. As the Law on Protection specifies, financial allowance is granted when it is necessary in order to ensure the safety of the asylum seeker, with special consideration given to the situation of single women.⁴¹⁸

When providing material reception conditions to children, the need to safeguard their interests should be taken into account, especially taking into consideration family unity, the best interests of the child and their social development, security and protection (particularly if they are a victim of human trafficking) and their opinion according to their age and maturity.⁴¹⁹

Since 2008, the Office for Foreigners has a special agreement with the Police, UNHCR, "La Strada" Foundation and Halina Niec Legal Aid Centre aiming to better identify, prevent and respond to gender-based violence in reception centres.⁴²⁰ Special teams have been created in all reception centres, consisting of one representative from the Office for Foreigners, the Police and an NGO. Their task is to effectively prevent acts of violence in reception centres and quickly respond to any which do occur. There were 28 cases of violence in 2017, 13 in 2018, 14 in 2019, 10 in 2020 and 3 in 2021.⁴²¹ In 2022, approx. 20 cases of violence (any violence, not only gender-based) were discussed by the special teams. According to the Office for Foreigners, none of them concerned sexual or gender-based violence, but violations of the rules of stay in the reception centre, conflicts between adults living in the centres, domestic violence and peer violence.⁴²²

⁴¹⁴ Information provided by the Office for Foreigners, 3 February 2023.

⁴¹⁵ Office for Foreigners, 'Telefon konsultacyjny dla cudzoziemców dotkniętych przemocą bądź będących świadkami przemocy', 21 March 2022, available in Polish here: <http://bit.ly/3TVA89a>.

⁴¹⁶ Office for Foreigners, 'Grupy wsparcia dla rodziców cudzoziemskich w procedurze uchodźczej', 22 June 2022, available in Polish here: <http://bit.ly/42WJqWA>.

⁴¹⁷ Office for Foreigners, 'Handbook of the Department of Social Assistance', 2022, available at: <http://bit.ly/3UdCDUB>. Information provided by the Office for Foreigners, 26 January 2022 and 3 February 2023.

⁴¹⁸ Article 72(1)(1) Law on Protection.

⁴¹⁹ Article 69b Law on Protection.

⁴²⁰ Porozumienie w sprawie standardowych procedur postępowania w zakresie rozpoznawania, przeciwdziałania oraz reagowania na przypadki przemocy seksualnej lub przemocy związanej z płcią wobec cudzoziemców przebywających w ośrodkach dla osób ubiegających się o nadanie statusu uchodźcy, 25 March 2008. See also Office for Foreigners, 'Handbook of the Department of Social Assistance', 2022, available at: <http://bit.ly/3UdCDUB>.

⁴²¹ Information provided by the Office for Foreigners, 1 February 2017, 1 February 2018, 15 January 2019, 22 January 2020, 26 January 2021 and 26 January 2022.

⁴²² Information provided by the Office for Foreigners, 3 February 2023.

In 2021, the Council of Europe Group of Experts on Action against Violence against Women and Domestic Violence (GREVIO) welcomed the tripartite teams, but noticed 'the low number of reported cases of gender-based violence within reception facilities'. Moreover, it regretted that 'specialist intervention in cases of domestic violence under the Blue Card procedure is not available to asylum-seeking women under the Law on Combating Family Violence. In practice, it was reported to GREVIO that some reception centres have established cooperation with municipalities to run Blue Card procedures, but this seems to depend on individual initiatives and no data were made available on the number of women seeking asylum covered by such a procedure'.⁴²³ Moreover, it is being increasingly highlighted that the Office for Foreigners' employees in the reception centres are not social workers; thus, they are not trained to deal with crises and to work with vulnerable persons such as victims of domestic violence.⁴²⁴ However, the Office for Foreigners opposes those claims, pointing to several trainings conducted for the centres' staff, including cleaners and security services, by NGOs (Fundacja Dajemy dzieciom siłę, La Strada).⁴²⁵

2. Reception of unaccompanied children

The only safeguards related to the special reception needs of unaccompanied children are those referring to their place of stay. Unaccompanied children are not accommodated in the reception centres. The custody court places them in a youth care facility, so unaccompanied children are not accommodated with adults in practice. Until the court decides on placing a child in a regular youth care facility, an unaccompanied child stays with a professional foster family functioning as an emergency shelter or in a youth care facility for crisis situations.⁴²⁶

The law also refers to qualified personnel that should undertake activities in the asylum procedures concerning unaccompanied children (a defined profile of higher education, and 2 years of relevant experience).⁴²⁷

When providing material reception conditions to children, the need to safeguard their interests should be taken into account, especially taking into consideration family unity, the best interests of the child and their social development, security and protection (particularly if they are a victim of human trafficking) and their opinion according to their age and maturity.⁴²⁸

Currently, unaccompanied asylum-seeking children can be placed in youth care facilities throughout the country. In 2022 they were accommodated in:

- Kętrzyn (16 children placed),
- Warsaw (4 children placed),
- Elk (4 children placed),
- Białystok (2 children placed),
- Gorzów Wielkopolski (3 children placed),
- Wasilków (3 children placed)
- Krasno (2 children placed)
- Supraśl (2 children placed),
- Chełm (2 children placed)
- Białowieża (2 children placed),
- Puławy (1 child placed),

⁴²³ GREVIO, '(Baseline) Evaluation Report on legislative and other measures giving effect to the provisions of the Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention) POLAND', 2021, available at: <https://bit.ly/3IKkly6>, 84.

⁴²⁴ SIP, 'Raport nt. przeciwdziałania przemocy wobec kobiet i przemocy domowej', 16 September 2021, available in Polish at: <https://bit.ly/3tyl04y>; SIP, 'Alternative report', 10 September 2020, available in English at: <https://bit.ly/3HGMtq4>, 6.

⁴²⁵ Information provided by the Office for Foreigners, 26 January 2022.

⁴²⁶ Article 62 (2) Law on Protection.

⁴²⁷ Article 66 Law on Protection.

⁴²⁸ Article 69b Law on Protection.

- Suwałki (1 child placed),
- Skawina (1 child placed), and
- Płock (1 child placed).⁴²⁹

F. Information for asylum seekers and access to reception centres

1. Provision of information on reception

The Border Guard, upon admitting the asylum application, has to inform the applicant in a language understandable to him or her and in writing about i.e. the asylum procedure itself, the asylum seeker's rights, obligations, and the legal consequences of not respecting these obligations, as well as the extent of the material reception conditions. It also provides the asylum seeker with the address of the centre to which they have to report.⁴³⁰ According to the Border Guard, it is provided in 24 languages.⁴³¹

Upon admission to the centre, asylum seekers receive (in writing or in the form of an electronic document, in a language understandable to them) the rules of stay in the centre (set in law), information about their rights and obligations (which includes all the basic information, including on access to the labour market or on their legal status), information on regulations governing the provision of material reception conditions and about procedures used in case of the person has been subjected to violence, especially against minors.⁴³² Moreover, the rules of stay in the centre shall be displayed in a visible place on the premises of the centre, in Polish and in languages understandable to the asylum seekers residing in the centre.⁴³³ In the first-reception centres new-coming asylum seekers could also participate in a course on basic information about Poland and the asylum procedure. Since March 2020 though, due to the COVID-19 pandemic, such courses were terminated. In 2022, they were resumed. The Office for Foreigners stated that since April 2022 the number of those courses was increased. They are organised in Polish, English and Russian for three age groups: children, young adults and adults.⁴³⁴

It is not envisaged in the legislation which languages the rules of stay in the centre, information about rights and obligations and regulations governing the provision of material reception conditions should be translated into. It states that information has to be accessible "in an understandable language". The rules of stay in the centre and the above-mentioned information issued on the basis of the current law were translated in practice into English, Russian, Arabic, Pashto, Dari, French, Georgian, Belarusian and Ukrainian.⁴³⁵

The Office for Foreigners claims that the centres' employees speak English and Russian.⁴³⁶ However, NGOs still consider interpreters' assistance in the reception centres insufficient, both in terms of the languages offered and in terms of quality.

2. Access to reception centres by third parties

Indicators: Access to Reception Centres

1. Do family members, legal advisers, UNHCR and/or NGOs have access to reception centres?
- ☐ Yes
 ☒ With limitations
 ☐ No

⁴²⁹ Information provided by the Office for Foreigners, 3 February 2023.

⁴³⁰ Article 30(1)(5) Law on Protection.

⁴³¹ Information provided by the Border Guard, 17 January 2023.

⁴³² Para 3 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴³³ Para 18 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴³⁴ Office for Foreigners, 'Więcej kursów orientacyjnych w ośrodkach dla cudzoziemców', 29 April 2022, available in Polish here: <http://bit.ly/3zla5yD>. See also Office for Foreigners, 'Handbook of the Department of Social Assistance', 2022, available at: <https://bit.ly/3UdCDUB>.

⁴³⁵ Information provided by the Office for Foreigners, 3 February 2023.

⁴³⁶ Information provided by the Office for Foreigners, 26 January 2022.

Asylum seekers staying in the centres have the right to be visited by family members, legal advisors, UNHCR, NGOs, etc. in the rooms intended for that purpose.⁴³⁷

Asylum seekers may receive visits in the centre from 9:00 to 16:00 in a place agreed upon with the employee of the centre. In particularly justified cases, the visiting hours in the centre may be prolonged upon permission of the employee of the centre, but not later than 22:00.⁴³⁸

Each entry of a non-resident into the premises of the centre requires the permission of:⁴³⁹

- ❖ The employee of the centre in the case of asylum seekers receiving social assistance, other than living in this centre;
- ❖ The Head of the Office for Foreigners in other cases.

The Head of the Office for Foreigners or an employee of the centre can refuse to give permission to enter the centre or withdraw it if this is justified regarding the interest of the third country national or necessary to ensure the safety or for epidemiological and sanitary reasons.⁴⁴⁰ None of the NGOs was refused entry to the reception centres in 2022.⁴⁴¹

The above-mentioned rules do not apply to the representatives of the UNHCR, who may enter the centre anytime provided that the staff of the centre was notified in advance.⁴⁴² As regards NGOs, whose tasks include the provision of assistance to asylum seekers, and entities which provide legal assistance to asylum seekers, the Head of the Office for Foreigners may issue a permit to enter the centre for the period of their activities performed for asylum seekers residing in the centre.⁴⁴³

In 2022, according to the Office for Foreigners, all persons asking to enter the reception centres to work with minors were checked in the Sexual Offenders' Registry. None of them was identified in this registry.⁴⁴⁴

Asylum seekers have access to information about entities providing free legal assistance. During their stay in the centre, asylum seekers communicate with legal advisers, UNHCR or NGOs mainly by phone, fax, e-mail, etc. Seven out of nine centres are located in small villages, far away from big cities, where most of the legal advisers, UNHCR and NGOs in Poland have their premises, and accessing them can be problematic. As a result, asylum seekers are often contacted only remotely, especially when NGOs do not have the funds for travelling to these centres.

In January 2022, a hunger strike was reported in the centre in **Grupa**. According to the Office for Foreigners, Afghan nationals protested *inter alia* against the meagre number of NGOs working in the centre and the low quality of the support they received from the NGO operating there.⁴⁴⁵

In October 2021, the Office for Foreigners announced a call for volunteers in reception centres. Their duties were to include *inter alia* assisting asylum seekers with contacting public authorities and doctors, seeking accommodation, learning Polish and doing homework.⁴⁴⁶ However, according to the Office for Foreigners, despite some interest in the voluntary work in the reception centres, potential volunteers

⁴³⁷ Paras 7-9 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴³⁸ Para 9 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴³⁹ Para 7.2 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁴⁰ Para 7.5 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁴¹ Information provided by the Office for Foreigners, 3 February 2023.

⁴⁴² Para 7.6 and 7.7 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁴³ Para 7.4 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁴⁴ Information provided by the Office for Foreigners, 3 February 2023.

⁴⁴⁵ Information provided by the Office for Foreigners, 3 February 2023.

⁴⁴⁶ Office for Foreigners, 'Wolontariat w ośrodkach dla cudzoziemców', 25 October 2021, available in Polish at: <https://bit.ly/3CfJjZd>.

withdrew their offers when they heard where the centres are located (far away from big cities).⁴⁴⁷ In February 2023, the Office for Foreigners repeated the call for volunteers.⁴⁴⁸

Access to the reception centres was restricted until 2021 due to the COVID-19 pandemic.⁴⁴⁹ In 2022, while access was allowed again, persons wanting to enter the reception centres were informed that they cannot be ill, should apply social distancing and should act under the instructions of the health authorities.⁴⁵⁰

G. Differential treatment of specific nationalities in reception

Ukrainian nationals and other persons fleeing the war in Ukraine have received a differential treatment as regards reception in Poland in 2022. However, as they were benefiting from temporary protection rather than international protection, their reception is described in more detail in the [section concerning temporary protection](#). Ukrainian nationals and others persons fleeing the war in Ukraine who applied for international protection had the same access to material reception conditions as all the other asylum seekers.

For information about the reception conditions of Afghan nationals evacuated in 2021, please see the 2021 update to this report.⁴⁵¹

⁴⁴⁷ Information provided by the Office for Foreigners, 3 February 2023.

⁴⁴⁸ Office for Foreigners, 'Wolontariat w ośrodkach dla cudzoziemców', 8 February 2023, available in Polish at: <http://bit.ly/3znXmLM>.

⁴⁴⁹ For more information, see AIDA, *Country Report Poland – 2021 Update*, May 2022, available at: <https://bit.ly/3ZydJ2R>.

⁴⁵⁰ Information provided by the Office for Foreigners, 3 February 2023.

⁴⁵¹ See AIDA, *Country Report Poland – 2021 Update*, May 2022, available at: <https://bit.ly/3ZydJ2R>.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2022:	No data available
2. Number of asylum seekers in detention at the end of 2022	453 ⁴⁵²
3. Number of detention centres:	6
4. Total capacity of detention centres:	1,052

The Border Guard Headquarters does not collect the total number of asylum seekers detained in guarded centres, but at the beginning of 2022 1,349 asylum seekers were in detention centres.⁴⁵³ Additionally, some of the local branches of Border Guards stated that there were:

- in Biała Podlaska – 270 asylum seekers⁴⁵⁴;
- in Lesznowola – 263 asylum seekers⁴⁵⁵;
- in Krosno Odrzańskie and Wędrzyn 683 asylum seekers were placed⁴⁵⁶;
- in Kętrzyn – 214 asylum seekers in total were detained in 2022.⁴⁵⁷

In January 2023, 468 children out of 1,349 foreigners were placed in detention centres.⁴⁵⁸

The duration of detention varied. Depending on the place of deprivation of liberty, it ranged from 52 days to over 17 months.⁴⁵⁹

Until August 2021, there were 6 detention centres in Poland, where people were generally detained according to demographics: **Lesznowola**, **Białystok**, **Przemyśl**, and **Krosno Odrzańskie** were for men. Women, married couples, and families with children were placed in **Kętrzyn** and **Przemyśl**, while **Biała Podlaska** was closed for renovation. Unaccompanied children were placed in the detention centre in **Kętrzyn**.

Due to the situation at the Polish-Belarusian border, the number of detention centres increased from 6 to 9 and the number of places in detention centres increased from 628 to 2,308 at the end of 2021. In fact, in August 2021, new detention centres were opened in **Czerwony Bór**, **Biała Podlaska**⁴⁶⁰ and in **Wędrzyn** as a result of a cooperation between Border Guards, the Head of the Office for Foreigners and the Ministry of National Defence (in case of **Wędrzyn**). Two of the new detention centres had previously served as reception centres. Based on the agreement with the Head of the Office for Foreigners in July 2021, the Border Guards adapted the building of the reception centre for foreigners in **Biała Podlaska** (2 August) and in **Czerwony Bór** (branch of the detention centre in **Białystok**) (12 August) for the needs of detention centres.

In June 2022 – **Biała Podlaska** detention centre which was placed in the former open centre, was closed. In August 2022 Border Guards closed the detention centre in **Czerwony Bór** and in **Wędrzyn**.⁴⁶¹

⁴⁵² Letter of Border Guards Headquarters 25 January 2023.

⁴⁵³ Letter of Border Guards Headquarters 25 January 2023.

⁴⁵⁴ Letter of Border Guards in Biała Podlaska, 8 March 2023.

⁴⁵⁵ Letter of Border Guards in Lesznowola, 2023

⁴⁵⁶ Letter of Border Guards in Krosno Odrzańskie, 3 March 2023.

⁴⁵⁷ Letter of Border Guards in Kętrzyn, 9 March 2023.

⁴⁵⁸ Letter of Border Guards Headquarters, 25 January 2023.

⁴⁵⁹ Poland: Cruelty Not Compassion, At Europe's Other Borders, April 2022, available in English here: <https://bit.ly/3mOh2FV>, Information from different branches of Border Guards, information form HFHR, March 2023

⁴⁶⁰ To prevent confusion, Biała Podlaska detention centre closed for renovation in 2020. In August Border Guard took the charge of the Biała Podlaska reception centre and they reorganized it and opened there a detention centre.

⁴⁶¹ BG Headquarters, 25 January 2023.

As of April 2023, there are 6 detention centres but their capacity raised and their profiles were changed once again.⁴⁶² Families with children are placed only in **Biała Podlaska** and the **Kętrzyn** detention centre will be only for single men.

Additionally, foreigners (also families with children) were placed in 2021 in an open space in the gymnasium (in **Kętrzyn**) and in containers added to the existing detention centres (**Kętrzyn** and **Lesznowola**).

Furthermore, the Border Guard placed migrants directly stopped at the Polish-Belarusian border in two of its stations (in **Dubicze Cerkiewne** and **Połowce**⁴⁶³), defined as “centres for foreigners’ registration” (Centrum **Rejestracyjne Cudzoziemców**). These facilities are very similar to detention centres, as the individuals held in such facilities did not have access to the Internet, computers or phones. Additionally, they could not access legal assistance, as they were left without any possibility to communicate with the outside world or leave these premises at any time. Moreover, the living conditions were critical, for example, foreigners were sleeping in one big room on the mattresses on the floor. Foreigners were accommodated there even for 3 – 4 weeks.⁴⁶⁴

In 2021 and in 2022 the profiles of the detention centres were changed several times. In 2022, men were placed in **Białystok**, **Lesznowola**, **Wędrzyn** and **Krosno Odrzańskie**. **Biała Podlaska**, **Czerwony Bór**, **Lesznowola**, **Białystok**, and **Kętrzyn** were for families with children and single women. In practice, it means that it is not possible to estimate the length of the detention of the foreigners who were for example in two or more detention centres as the detention centres have separate registration systems. In the opinion of the Commissioner for Human Rights, the conditions in detention centres were not always adapted to the changed profiles.⁴⁶⁵

On 13 August 2021, a new amendment was introduced to the Ordinance of the Ministry of Interior and Administration of 24 April 2015 on the guarded centres and detention centres for foreigners which allows now to place foreigners in a room for foreigners or in a residential cell the area of which is not less than **2 sqm** per foreigner:

- in the case of no vacancies in rooms for foreigners,
- for a specified period of time,
- not longer than 12 months.⁴⁶⁶

This new regulation has caused detention centers to become overcrowded, in particular the **Lesznowola**, **Przemyśl**, **Wędrzyn**, **Białystok** and **Kętrzyn**⁴⁶⁷ detention centres in 2021 and in 2022.⁴⁶⁸ Since 25 April 2022, migrants placed in detention centres in **Biała Podlaska**, **Białystok**, **Czerwony Bór** and in **Kętrzyn** had at least 4 sqm per person. The detention centre in **Wędrzyn** returned to 4 sqm on 6 June 2022.⁴⁶⁹ In the case of detention centres for men, the area per foreigner was reduced to a minimum, depending on

⁴⁶² Information provided by HFHR March 2023.

⁴⁶³ KMPT ad hoc visit to the Border Guard post in Narewka, available in Polish at <https://bit.ly/3ELyE9Y>.

⁴⁶⁴ Information provided by SIP, April 202, Sip w działaniu, Sip report for 2021, available in Polish: <https://bit.ly/3oAq2ia>.

⁴⁶⁵ Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>. [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus”, Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁴⁶⁶ Previously, the minimum was 4 sqm.

⁴⁶⁷ BG in Kętrzyn 9 March 2023: in the period January-April there was no less than 2 sqm meters of surface area per migrant.

⁴⁶⁸ Information provided by Border Guards Headquarters to SIP, February 2022 and 17 January 2023; Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>, Situation of foreigners in the centres guarded in times of crisis on the border of Poland and Belarus, available in Polish here: <https://bit.ly/3URYZek>.

⁴⁶⁹ Annual Report on the Situation of Asylum in the European Union, 2022 available in English here: <https://euaa.europa.eu/publications/asylum-report-2022>, 179.

the needs.⁴⁷⁰ In the **Lesznowola** detention centre, there was no less than 3 sqm per migrant, but since 21 October 2022, there was no less than 2 sqm of surface area per migrant.⁴⁷¹ In **Przemyśl**, from 1 January 2022 to 26 July 2022 and from 21 October up to 10 March 2023 surface area per migrant was no less than 2 sqm.⁴⁷²

According to National Prevention Mechanism, noted that in the period from 30 June to the end of December 2021, the capacity of detention centres increased more than fourfold. This indicates a systemic preference for increasing the capacity of detention centres rather than utilizing alternative measures to detention.⁴⁷³ What is more, in **Krosno** and in **Wędrzyn** detention centre the actual number of foreigners exceeded the capacity of the detention centre, and the actual area in some living rooms per foreigner was less than 2 sqm in **Wędrzyn**.⁴⁷⁴

Due to the overcrowding in detention centres, the number of social assistants was insufficient. In practice, it means that migrants' right to information on the current status of their proceedings was not respected and foreigners are not aware of their rights and obligations.⁴⁷⁵ Additionally, migrants did not have access to leisure activities.

Foreigners are obliged to pay for their stay in a detention centre calculated on the basis of an algorithm, set in the Polish law.

It is worth noting that asylum seekers from Syria, Yemen and Afghanistan who crossed the Polish-Belarusian border against the Polish regulations were often initially placed in detention even though Poland suspended deportations to these countries.⁴⁷⁶ Later on, they were released by the Head of the Office for Foreigners from detention centre, despite the fact that in many cases, courts had prolonged their stay.⁴⁷⁷

According to NGOs, Border Guards at the border ignored migrants' requests for international protection. In practice, it meant that the return procedures were immediately initiated and the migrants were placed in detention centres based on the Act on foreigners instead of the Act on granting international protection in Poland. This practice also influenced the period of detention: instead of 6 months, they were detained for longer periods.

According to the Office for Foreigners, the asylum cases of migrants placed in detention are prioritised but it does not mean that they are examined more quickly.⁴⁷⁸ In practice, it means that asylum seekers have only 7 days to present additional evidence in their case, before an asylum decision is made, which can be very difficult to provide as the asylum seekers have a limited access to the internet and no access to social apps as Messenger or WhatsApp.

The interview is conducted through videoconference in the presence of a psychologist and interpreter (e.g., in the detention centre in **Kętrzyn**). According to NGOs, psychologists and interpreters are available

⁴⁷⁰ Information provided by Border Guard Headquarters, 17 January 2023, Kętrzyn 9 March 2023.

⁴⁷¹ BG in Lesznowola, 7 March 2023.

⁴⁷² BG in Przemyśl, 10 March 2023.

⁴⁷³ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁴⁷⁴ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>, 71.

⁴⁷⁵ Commissioner for Human Rights, visit in detention centre in Wędrzyn in October, available at <https://bit.ly/3HrbNQJ>. Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>, Situation of foreigners in the centres guarded in times of crisis on the border of Poland and Belarus, available in Polish here: <https://bit.ly/3URYZek>.

⁴⁷⁶ Information provided by Nomada Association and Halina Niec Legal Aid Centre, March 2023.

⁴⁷⁷ Commissioner for Human Rights, 31 August 2022, available in Polish here: <https://bit.ly/3NHxena>.

⁴⁷⁸ Information provided by the Office for Foreigners, 3 February 2023.

on the premises of the Head of the Office for Foreigners or in a different place and not in the centre where the individual is detained.

In addition, NGOs claim that in the case of detained asylum seekers, the Refugee Board does not conduct evidentiary proceedings, meaning that they do not assess the grounds for applying for international protection.⁴⁷⁹

In 2022, the average time for the Refugee Board to issue a decision in appeal proceedings against refusal of international protection was 127 days for the cases which finished in 2022. The longest processing time in 2022 took 1445 (in 2021 -1,697 days (in 2020 it was 1355 days) and the shortest was 1 day. There were two cases (down from 5 in 2020) where the Refugee Board decided to hear the applicant (but the Refugee Board stresses that applicants were also asked for written statements), and there were no cases of hearing a witness in 2022 (just like in 2020 and in 2021).⁴⁸⁰

In the period 2019-2021, coercive measures against migrants were used 60 times in **Białystok** and **Czerwoný Bór**. Additionally, 72 extraordinary events were recorded which concerned hunger protests and fights/beatings, which accounted for 41.7% and 34.7% of all events, respectively.⁴⁸¹

In **Krosno Odrzańskie** in 2022 direct coercive measures were used against the migrants: physical force - 11 times, handcuffs - 44 times and an isolation room - 10 times.⁴⁸² In **Biała Podlaska** - 3 times these measures were used.⁴⁸³ In **Kętrzyn** there were 6 fights reported among the foreigners – and 72 coercive measures were used.⁴⁸⁴ In **Przemysł**, these measures were used 36 times and twice in **Kętrzyn**.⁴⁸⁵ In April 2023, there was a case of the death of a Syrian man in the detention centre. Ombudsman Office investigated the use of a direct coercive measure - an electric stun gun against a foreigner placed there. An investigation has already been launched in this case for exceeding authority.⁴⁸⁶

At the end of February 2022, the detention centre in **Przemysł** was reorganized and migrants placed there were transferred to the detention centre in **Biała Podlaska**. The foreigners who crossed the border with Ukraine were initially placed there for the ID-verification process. The Commissioner for Human Rights visited that facility and pointed out that the rooms for foreigners had metal bunk beds without mattresses but only with sleeping pads. The rooms were in disorder, and there was litter on the floor, including pieces of food. Moreover, foreigners complained about food, lack of access to fresh air due to the prohibition to leave the building, lack of information about the duration of the verification procedure, and problems with contacting with the relatives with whom they were separated.⁴⁸⁷

⁴⁷⁹ Information provided by Rule of Law Institute, 20 January 2023.

⁴⁸⁰ Information provided by Refugee Board, 12 January 2023.

⁴⁸¹ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>,

⁴⁸² Information provided by Krosno Odrzańskie 3 March 2023.

⁴⁸³ Information provided by Biała Podlaska 8 March 2023.

⁴⁸⁴ Information provided by Border Guards in Lesznowola 7 March 2023.

⁴⁸⁵ Information provided by Border Guards in Kętrzyn 2023.

⁴⁸⁶ "Unjustified use of a stun gun by a Border Guard officer against a foreigner. Ombudsman requests investigation", March 2023, available in Polish here: <https://bit.ly/3pf5vjT>.

⁴⁸⁷ Representatives of Commissioner for Human Rights Office in the Podkarpackie and Lubelskie voivodeships, 28 February-4 March, available in English at: <https://bit.ly/3v7s6yY>.

B. Legal framework of detention

1. Grounds for detention

Indicators: Grounds for Detention

- | | | |
|--|--|--|
| 1. In practice, are most asylum seekers detained | | |
| ❖ on the territory: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ❖ at the border: | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. Are asylum seekers detained during a regular procedure in practice? | <input checked="" type="checkbox"/> Frequently | <input type="checkbox"/> Rarely <input type="checkbox"/> Never |
| 3. Are asylum seekers detained during a Dublin procedure in practice? | <input checked="" type="checkbox"/> Frequently | <input type="checkbox"/> Rarely <input type="checkbox"/> Never |

Asylum seekers are placed in a detention centre if alternatives to detention cannot be used and for the following reasons:⁴⁸⁸

1. In order to establish or verify their identity;
2. To gather information, with the asylum seeker's cooperation, connected with the asylum application, which cannot be obtained without detaining the applicant and where there is a significant risk of absconding;
3. In order to make or execute the return decision, if an asylum seeker had a possibility to claim asylum previously and there is a justified assumption that he or she claimed asylum to delay or prevent the return;
4. When it is necessary for security reasons;
5. In accordance with Article 28 of the Dublin III Regulation, when there is a significant risk of absconding and immediate transfer to another EU country is not possible.

A "risk of absconding" of the asylum seekers exists particularly if they:⁴⁸⁹

- ❖ Do not have any identity documents when they apply for asylum;
- ❖ Crossed or attempted to cross the border illegally, unless they are so-called "directly arriving" (i.e. arrived from the territory where they could be subject to persecution or serious harm) and they submitted an application for granting refugee status immediately and they explain the credible reasons of illegal entry;
- ❖ Entered Poland during the period for which their data were entered into the list of undesirable foreigners in Poland or to the Schengen Information System in order to refuse entry.

Detention is possible in law and in practice in all asylum procedures, especially in the case of the unlawful crossing of the border and transfer under the Dublin Regulation. It was so in the case of migrants who were stopped at the Polish-Belarusian border in 2021 and 2022. Their requests for asylum were ignored and they were placed in detention centres based on the Act on foreigners.⁴⁹⁰ Their asylum applications were registered only in detention centres.

There are concerns that detention is not used as a measure of last resort and is often applied or prolonged automatically.⁴⁹¹

⁴⁸⁸ Articles 87(1) and 88a(1) Law on Protection.

⁴⁸⁹ Articles 87(2) and 88a(1) Law on Protection.

⁴⁹⁰ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁴⁹¹ ECtHR, *CASE OF NIKOGHOSYAN AND OTHERS v. POLAND*, Application no. 14743/17, available at: <https://bit.ly/36062N3>.

2. Alternatives to detention

Indicators: Alternatives to Detention

1. Which alternatives to detention have been laid down in the law?
 - ☒ Reporting duties
 - ☒ Surrendering documents
 - ☒ Financial guarantee
 - ☒ Residence restrictions
 - ☐ Other
2. Are alternatives to detention used in practice?
 - ☐ Yes ☒ No

The Law on Protection sets out the following alternatives to detention for asylum seekers:

1. An obligation to report;
2. Bail options (zabezpieczenie pieniężne);
3. The obligation to stay in a designated place.

BG can use more than one alternative in the case of any foreigner.⁴⁹² Alternatives can be applied by the BG which apprehended the asylum seeker concerned or by the court (subsequent to a BG's decision not to apply alternatives and who have submitted a motion for detention to the court).⁴⁹³ An asylum seeker can be detained only if the alternatives to detention cannot be applied.⁴⁹⁴ In practice, asylum seekers are placed in detention automatically, and alternatives to detention are not considered, properly justified or explained.⁴⁹⁵ In 2022, the Border Guard issued alternatives to detention to 165 asylum seekers and to 817 third country nationals (in total 982).⁴⁹⁶

Over the period 2017-2022 alternatives to detention were used as follows for migrants, including asylum seekers and returnees:⁴⁹⁷

Alternatives to detention in Poland: 2017-2022						
Type of alternative	2017	2018	2019	2020	2021	2022
Reporting obligations	2,094	1,327	1,603	507	818	934
Residence in a designated place	1,818	1,058	1,522	476	233	281
Bail	4	1	3	1	3	6
Surrendering travel documents	49	29	36	39	343	223
Total	3,965	2,415	3,164	1,023	1,397	1,444

Source: Border Guard: 14 January 2018; Border Guard, 14 and 25 January 2019, 17 January 2020, 5 February 2021, Instytut Nauk Prawnych, 2 February, Border Guard March 2022, 25 January 2023.

In the NGOs' assessment, courts examine the possibility of using alternatives to detention in a superficial way. Courts held very often that it is not possible to impose an alternative to detention based on the risk of absconding and that asylum seekers had no money or no place to stay, ignoring the fact that asylum seekers have a right to live and receive financial assistance in open centres for foreigners managed by the Head of the Office for Foreigners.⁴⁹⁸

⁴⁹² Article 88(3) of the Law on Protection.

⁴⁹³ Articles 88(2) and 88b(2)-(3) Law on Protection.

⁴⁹⁴ Article 88a(1) Law on Protection.

⁴⁹⁵ Information provided by Legal Intervention Association Rule of Law Institute and Nomada Association, February 2023.

⁴⁹⁶ Information provided by Border Guards Headquarters to HFHR, 25 January 2023.

⁴⁹⁷ In practice, a person may be subject to more than one alternative measure.

⁴⁹⁸ information provided by HFHR in February 2023.

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?
☐ Frequently ☒ Rarely ☐ Never

❖ If frequently or rarely, are they only detained in border/transit zones? ☐ Yes ☒ No
2. Are asylum seeking children in families detained in practice?
☒ Frequently ☐ Rarely ☐ Never

If a decision to release a foreigner from the detention centre is issued and the asylum seeker is a disabled, elderly, pregnant or single parent, the SG is obliged to organise the transport to the reception centre, and – in justified cases – provide food during the transport.⁴⁹⁹ If the asylum seekers do not belong to these categories, any assistance to reach open centres is provided, regardless of the factual situation they are in.⁵⁰⁰

In 2022, at least 102 (101 in **Kętrzyn**, and one case in **Białystok**) migrants benefited from this form of transport.⁵⁰¹

1.1. Detention of persons with health conditions

According to the law, asylum seekers whose psychophysical state leads to believe that they are victims of violence or have a disability as well as unaccompanied minors cannot be placed in detention centres. This is also applicable to asylum seekers whose detention causes a serious threat to their life or health,⁵⁰² as under the law, an asylum seeker should be released if further detention constitutes a threat to their life or health.⁵⁰³ This means that, for example, children, if they stay in Poland with parents or other legal guardians, can still be detained, as can pregnant women if they are healthy.

The provisions are absolute and do not allow for any exceptions and have to be considered separately and independently of each other, but this is not a practice followed by the Border Guards and courts, according to National Prevention Mechanism.⁵⁰⁴

In the opinion of NGOs and the Commissioner for Human Rights, the problem with the identification of victims of torture and violence persists and there is a systematic problem with placing foreigners whose mental and physical condition indicates a possible danger to their life or health.⁵⁰⁵ Indeed, a poor mental condition is hardly ever accepted by courts as sufficient ground for not placing in or releasing an asylum seeker from detention.⁵⁰⁶ Identification should be conducted before placing in detention and not in detention.

⁴⁹⁹ Article 89cb Law on Protection.

⁵⁰⁰ Commissioner for Human Rights asks about assistance for foreigners released from guarded centers. Border Guard responds, February 2023, available (PL) at <https://bit.ly/3Bvjq8d>.

⁵⁰¹ BG in Kętrzyn 9 March 2023, BG in Białystok 17 March 2023.

⁵⁰² Article 88a(3) Law on Protection.

⁵⁰³ Article 406(1)(2) Law on Foreigners.

⁵⁰⁴ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁵⁰⁵ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁵⁰⁶ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

According to the Commissioner for Human Rights and NGOs, the authorities do not always release migrants who suffered the violence in their country of origin⁵⁰⁷ or, more recently, at the Polish-Belarusian border.⁵⁰⁸ In 2022, an increasing number of individuals are being detained after hospitalization for serious fractures sustained from falling off the wall.

Additionally, the Border Guard continues to apply internal guidelines allowing deprivation of liberty of foreigners who have experienced violence ("Principles of Border Guard's Procedure with Aliens Requiring Special Treatment."). In 2019, the Border Guard updated internal guidelines called "Rules of Conduct of the Border Guard towards foreigners requiring special treatment". Based on these rules, only foreigners who exhibit clear symptoms indicating that they have been subjected to severe forms of violence, and as a result, whose current psychophysical condition is significantly below average, are exempt from being placed in detention. It means that the internal guideline introduces additional restrictions unknown to the Act of Foreigners and limits the prohibition of detention of violent victims to victims of serious forms of violence, who manifest the symptoms of violence and whose psychophysical state is significantly below the norm. Moreover, the updated guideline still does not solve the long-standing problem of the lack of an effective system for the identification of victims of violence.

This guideline limits the need to examine detained third-country nationals only if they:

- Were in need of first aid assistance during the arrest;
- May be in a condition that threatens their life or health;
- Have declared that they require permanent or periodic treatment, the interruption of which would endanger their health or life;
- Are suspected of being carriers of an infectious disease.

In practice, it means that the decision to conduct a medical examination is made by the Border Guard officer. But there are serious doubts about the ability of the Border Guards officers to recognise if a migrant is a violence victim. What is more, this guideline does not indicate the necessity of a possession of medical knowledge by the officer and there is a lack of a determination of the methods and criteria based on which the officer could assess whether a medical examination is necessary.⁵⁰⁹ What is more the foreigners who are placed in detention and stated that they had experienced violence during their detention, are not automatically and immediately subjected to a medical examination.⁵¹⁰ Moreover, the guidelines do not introduce a procedure to release immediately the victim of violence from a detention centre. One of the recommendations NPM recommends not to use the guidelines prepared by the Border Guards as they are against the law and international standards, including the Istanbul Protocol. In the opinion of the NPM there should be two different documents introduced: the first one would consider the early identification of the victims of violence and the other one – the migrants' health assessment concerning the potential risk for detained persons.⁵¹¹

⁵⁰⁷ Migration: Key fundamental rights concerns – January 2021- June 2021, FRA Bulletin 2, available in English at <https://bit.ly/3OoWmgA>, 23.

⁵⁰⁸ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁵⁰⁹ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁵¹⁰ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at <https://bit.ly/3pmM6dS>.

⁵¹¹ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

In addition, there are detained foreigners who, despite the evident symptoms of PTSD, have not been identified, or the identification process takes a very long time, and their mental state deteriorates due to their detention.⁵¹²

According to the Commissioner for Human Rights, before the application to the court to place or prolong the stay of a foreigner, is submitted by the Border Guard, the physicians only issue an opinion on whether the foreigner's physical health at the time of the examination allows for a stay in the detention centre. This means that the assessment does not include:

- danger to life and health through the risk of deterioration of the current state of health e.g., emerging or worsening of mental disorders due to re-traumatisation and stress caused by detention;
- the state of mental health, as no psychological or psychiatric examination is carried out;
- the mental state and the physical state in terms of the presumption of being subjected to violence (as there is no psychological or psychiatric examination or medical evaluation of the injuries and their possible causes).

According to the representatives of a National Prevention Mechanism identification of torture victims is still based on the Border Guards' internal guidelines which are contrary to the provisions of the law. And in practice, foreigners who should never be placed in detention centres, stay there longer. In one of its recommendations, National Prevention Mechanism calls for the Border Guards to abandon guidelines and create a tool which could effectively identify foreigners with experience of torture or other forms of violence.⁵¹³

Representatives of the Commissioner for Human Rights met foreigners who informed them at the stage of arrest that they had been subjected to violence or who came from a country with a high likelihood of torture and violence and yet were not examined in this regard. At the same time, when applying to the court to order detention, the Border Guard stated that there were no contraindications to their stay in the detention centre. In some cases, individuals that are in good physical condition at the moment of placing in detention may risk a deterioration of their health condition in detention, in some cases connected to somatic conditions connected to their past traumatic experiences.⁵¹⁴

The Commissioner for Human Rights, in his letter addressed to the Presidents of Regional Courts, expressed his concerns about the cases of foreigners placed in detention who were victims of violence and were in bad psychophysical condition. Furthermore, it was underlined that the level of medical and psychological care was far from sufficient and the contact with psychologists in detention centres was unavailable, which might lead to the deterioration of foreigners' health through secondary victimization.⁵¹⁵ For example, in the detention centre in **Krosno**, only one psychologist was hired for 4 hours, once a week who was responsible for 79 foreigners in **Krosno Odrzańskie**⁵¹⁶ or **Czerwony Bór** there was only one internal psychologist who was a Border Guard Officer.⁵¹⁷ Despite these deficiencies, the Border Guards in **Kętrzyn**, **Wędrzyn**, **Biała Podlaska** and **Lesznowola** did not agree to a visit of the NGO who is specialising in providing psychological assistance for foreigners.⁵¹⁸

⁵¹² Foreigners in administrative detention. Results of the KMPT monitoring in guarded centres for foreigners in Poland. March 2021. p. 43 available in Polish at <https://bit.ly/3L0F5YZ>

⁵¹³ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁵¹⁴ Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>.

⁵¹⁵ Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>.

⁵¹⁶ BG in Krosno Odrzańskie, 3 March 2023.

⁵¹⁷ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>,

⁵¹⁸ Information provided by Polish Migration Forum, February 2023.

The Commissioner pointed out that the number of hired psychologists and physicians in detention centres is insufficient⁵¹⁹ and the psychologists do not know the languages of the migrants which made it difficult or even impossible to establish proper contact with a foreigner. Additionally, it was stated that the serious deficiencies both in psychological and medical care provided to foreigners in detention were diagnosed before the crisis on the Polish-Belarusian border and the overcrowding in detention centers had dramatically worsened the access to psychologists and medical care.⁵²⁰

An analysis of the justifications of the courts' rulings concerning detention leads to the conclusion that in a large number of cases mental health is not considered by judges or there is no reference to the health of the foreigners at all.⁵²¹ Additionally, courts do not accept psychological opinions submitted by independent psychologists (e.g. from NGOs),⁵²² and they rely on short opinions (very often it is one sentence stating there are no obstacles to prolonging the stay in a guarded centre) of the physician who works in the detention centre.⁵²³

If medical or psychological opinions, which are in a foreigner's files, indicate that a foreigner has experienced violence, the documentation is not always handed over to the court. This results in the illegal placement of people who have experienced violence in detention centres and arrests for foreigners, and consequently leads to their secondary traumatization.⁵²⁴

In practice, only courts of higher instance call on experts to determine applicants' mental health state but this happens very rarely (once in 2021).⁵²⁵ Practice shows that neither the Border Guard nor the courts take the initiative to assess if an asylum seeker is a victim of violence. In 2021, the court appointed the psychologist as an external consultant only in 1 case.⁵²⁶ In 2020, no expert was appointed in any district or regional court in a total of 777 cases.⁵²⁷ Additionally, courts do not conduct their own evidentiary proceedings.⁵²⁸

In 2018 and in 2022⁵²⁹ the Commissioner for Human Rights reminded that the internal guidelines, based on which the identification is performed, do not clearly state that vulnerable persons, once identified, should be immediately released from detention. The Commissioner observes that the lack of accessible treatment and therapy in the detention centres deepens the trauma.⁵³⁰ Torture survivors stay in detention centres and even if they are identified at a later stage, they are not released from detention.⁵³¹

In its 2019 concluding observations, the UN Committee against Torture stated that in Poland there is insufficient capacity to identify asylum seekers who are victims of torture and lack of adequate protection and care for survivors of sexual and gender-based violence. In the opinion of CAT,⁵³² Poland should

⁵¹⁹ Commissioner for Human Rights, visit in detention centre in Wędrzyn in January 2022, available at <https://bit.ly/3M7oXpx>

⁵²⁰ Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>; Commissioner for Human Rights, visit in detention centre in Wędrzyn in January 2022, available at: <https://bit.ly/3M7oXpx>.

⁵²¹ Information provided by Legal Intervention Association, January-February 2023.

⁵²² Information provided by Legal Intervention Association, HFHR, January 2023.

⁵²³ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at: <https://bit.ly/3pmM6dS>.

⁵²⁴ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at: <https://bit.ly/3pmM6dS>.

⁵²⁵ UN Committee against Torture, Concluding observations on the seventh periodic report of Poland, 22-24 July 2019, available at: <https://bit.ly/36kr8Qv>

⁵²⁶ Information provided by Regional Court in Olsztyn to SIP, 21 January 2022.

⁵²⁷ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at <https://bit.ly/3pmM6dS>.

⁵²⁸ SIP, interview, January 2021.

⁵²⁹ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁵³⁰ Commissioner for Human Rights, *Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej*, 7 January 2019, available (in Polish) at: <http://bit.ly/2BU7ej5>.

⁵³¹ Information provided by the HFHR, January 2023.

⁵³² CAT (2019) Concluding Observations: Poland CAT/C/POL/CO/7, available at: <https://bit.ly/3nx6BXs>.

introduce a principle to law that detention of asylum-seekers, and in particular children and vulnerable persons, should be a measure of last resort, for as short a period as possible and in facilities appropriate for their status. Furthermore, CAT recommended that Polish authorities refrain from placing asylum seekers and in particular children in guarded centres and ensure the fast and appropriate identification of vulnerable persons including survivors of torture and ill-treatment, as well as sexual and gender-based violence, and provide them with adequate access to health care and psychological services.⁵³³

Moreover, the Committee was concerned that training on the provisions of the Convention and the Istanbul Protocol is not part of the training of border guards, judges, forensic doctors and medical personnel engaged in the treatment of foreigners in detention. Therefore, in the opinion of CAT, Poland should remedy it.

On 2 November 2020, the Regional Court in **Olsztyn** released an asylum seeker who was a victim of violence. The court stated that a foreigner had to be released regardless of the reason of placing him in the detention centre; type of the experienced violence; and the place and circumstances foreigner suffered from violence. The court indicated that foreigners cannot be placed in detention centre if there are merely grounds for reasonably suspecting that he/she is a victim of violence. Furthermore, the court shared the concerns raised by SIP regarding the internal algorithm on the basis of which the identification of violence victims is carried out and stated that releasing the foreigners who suffered from violence and whose treatment is not possible in detention centre is against the Polish law.⁵³⁴ In this case, Border Guard knew that an asylum seeker had a number of gunshot wounds and was in a situation posing a real threat of serious injury or death. However, they denied releasing him from detention centre because in their opinion there was no evidence that he was subject to violence. The foreigner's mental health had deteriorated during 8-month detention.

In two other cases in 2020 and in 2021 the national courts granted compensation for unlawful detention of foreigners. In one of the cases, the Regional Court in **Olsztyn** stated that a person who experienced violence cannot be detained regardless of the form of violence and identity of the perpetrator.⁵³⁵ In 2021 – in the first case which concerned unlawful detention of the family, the court granted 90,000 PLN (around 19,600 Euros) and in the other which concerned the detention of the victim of torture – 39,000 PLN (around 8,500 Euros).

On 18 January 2020, the European Court of Human Rights communicated the case of *A.A. against Poland*.⁵³⁶ The case concerned an asylum seeker from Burundi, who came to Poland in January 2019 with a fake Swiss ID. The applicant was detained and placed in a detention centre in **Kętrzyn** despite the fact that she was a victim of rape, suffered from that traumatic experience and had permanent scars. During her stay in the guarded centre, she was examined by two psychologists. The first expert, the employee of the detention centre, issued an opinion according to which she did not suffer from PTSD, but she needed psychological treatment. The second psychologist found out that she was a victim of violence and that her emotional state had worsened. In addition, expert-recommended psychiatric consultation and treatment. However, the courts prolonged her detention and stated that she represented a risk of absconding and was not diagnosed with PTSD syndrome and that the guarded centre provide her with adequate living conditions and medical care. Additionally, she was not allowed to participate in court hearings concerning her appeals against the placement and prolongation of her detention. Moreover, her appeal against the extension of detention was examined only after 50 days. On 29 September 2020, the Court decided to strike the application out of the list of cases due to the unilateral declaration that the applicant was deprived of her liberty in breach of Article 5 § 1 (f) of the Convention and that she did not have at her disposal an effective procedure by which she could challenge the lawfulness of her detention,

⁵³³ Commissioner for Human Rights, 'Uwagi końcowe Komitetu Przeciwko Torturom wobec Polski' available at: <https://bit.ly/36jgfhN>.

⁵³⁴ SIP, "Regional Court in Olsztyn: a victim of violence may not be put in a detention center", judgment of 2 November 2020, VII KZ 420/20.

⁵³⁵ SIP, 'Victim of violence cannot be deprived of liberty for migration reasons', judgment of 29.07.2019 II Ko 280/18, available at: <https://bit.ly/2Ro8OBT>.

⁵³⁶ ECtHR, "A.A. against Poland" Application, no. 47888/19, lodged on 29 August 2019, available at: <https://bit.ly/2TPp6Fp>.

as required by Article 5 § 4 of the Convention. Poland undertook to pay the applicant the amount of EUR 9,000.

1.2. Detention of children

According to the law, unaccompanied asylum-seeking children should not be detained,⁵³⁷ but in practice, it happens that they are placed the detention centres if they are accompanied by unrelated adults⁵³⁸ or when there are doubts as to their age or if they were placed in detention as irregular migrants (which is possible under the law⁵³⁹) and only then applied for international protection. Asylum-seeking and migrant children who are with members of their families can be placed in detention centres together with accompanying adults.⁵⁴⁰

Families with children were placed in detention centres in **Lesznówola, Białystok, Czerwony Bór, Biała Podlaska** (two detention centres, one was reconverted from reception to detention centre), **Przemyśl**, and **Kętrzyn** in 2022. Families were placed in buildings and containers. The number of containers was insufficient in detention centre in Kętrzyn, which in practice meant that two families could be placed together in one container.⁵⁴¹

Unaccompanied children are placed only in a detention centre in **Kętrzyn**, where rooms (with 15 beds) are separated from the remaining part of the centre.

In 2022, 4 unaccompanied children were placed in the detention centre in **Krosno**. They were released after their identification as minors.⁵⁴² According to NGOs, it happens that minors are placed in detention centres as a result of medical examinations of their age.⁵⁴³

National Prevention Mechanism assessed critically the age assessment procedure set up in Polish law which is solely conducted in a medical way and in most of the cases only an X-ray of a wrist was performed. In its opinion, this procedure should be comprehensive, also taking into account psychological, developmental or environmental factors. NPM recommends that all evidence, such as photos of identity documents, have to be taken into account in each case of the final age assessment and any doubts have to be resolved in favour a minor. Additionally, the age assessment certificate should include a description of the examination along with the error limit.⁵⁴⁴

According to NGOs, the conditions in detention centres are not adequate for children: in some detention centres there was no children friendly space as playgrounds or social rooms.⁵⁴⁵

⁵³⁷ Article 88a(3) Law on Protection.

⁵³⁸ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>, 21.

⁵³⁹ BG in Krosno Odrzańskie, 3 March 2023.

⁵⁴⁰ Although it happens in practice that some members of the family are placed in the reception centre and some in the detention centre. See for instance, T. Sieniow, 'Wnioski z monitoringu wraz z rekomendacjami', 59.

⁵⁴¹ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish at: <https://bit.ly/3URYZek>.

⁵⁴² Information provided by Border Guards in Krosno, 3 March 2023.

⁵⁴³ Information provided by HFHR, February 2023.

⁵⁴⁴ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish at: <https://bit.ly/3URYZek>.

⁵⁴⁵ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2021 r. [Report SIP in action. Rights of foreigners in Poland in 2021], available (PL) at <https://bit.ly/3pmM6dS>.

Children in detention centres: 2022			
Centre	Number of children detained in 2022 in total ⁵⁴⁶	Number of UAMs in 2022	Average Length of detention in 2022
Kętrzyn	245	51	126 days (in asylum procedure) so it means that foreigners could be in detention even longer
Przemyśl	69	0	5 months (152 days)
Lesznowola	48	0	134 days
Biała Podlaska	139	0	124 days only in the asylum procedure at the beginning of the year
Białystok/Czerwony Bór	89/85	as for (January-July)	N/A
Krosno Odrzańskie	0	4	N/A

Source: Letter of Border Guards in Biała Podlaska, 8 March 2023, in Kętrzyn 9 March 2023, Krosno Odrzańskie 3 March 2023, in Przemyśl 10 March 2023, Headquarters 2023.

In 2021, the number of detained children has increased to 567 in total, whereas in 2020 only 101 children were deprived of their liberty. In the period between January and 31 July 2022, 575 children were placed in detention centres in Poland, out of a total of 2 771 detainees.⁵⁴⁷

The policy of protection of children in detention was put in place, in 2018. The new guidelines were introduced - "Intervention procedures in case of hurting children in guarded centres for aliens". Within the framework of that policy, the employees of guarded centres were trained in the new rules and identification of behaviour which should be considered abuse.⁵⁴⁸ In 2021 there were 2 cases of abuse against children, including one in Kętrzyn and one in Biała Podlaska.⁵⁴⁹ In 2022, no similar cases were reported.

In August 2019, the UN Committee against Torture (CAT) expressed its concern regarding the detention of families with children and unaccompanied minors over 15 years old. According to CAT conditions in detention centres require improvements and Poland should refrain from placing asylum seekers and in particular children in guarded centres for foreigners.⁵⁵⁰ In addition, Poland should introduce a principle to the law that detention of asylum-seekers, and in particular children and vulnerable persons, should be a measure of last resort, for as short a period as possible and in facilities appropriate for their status. Furthermore, CAT recommended that Polish authorities refrain from placing asylum seekers and in particular children in guarded centres and ensure the fast and appropriate identification of vulnerable persons including survivors of torture and ill-treatment, as well as sexual and gender-based violence, and provide them with adequate access to health care and psychological services.⁵⁵¹

In January 2022 the Commissioner for Human Rights in his letter to the Presidents of the Regional Courts (*Prezesów Sądów Okręgowych*) expressed, among others, his concerns regarding the detention of

⁵⁴⁶ The numbers for specific centres do not add to the total number of children detained in 2021 because families were transferred between the centres.

⁵⁴⁷ Information from the Border Guards Headquarters, 7 September 2022.

⁵⁴⁸ Communication from Poland concerning the case *Bistieva and others v. Poland* (application No. 75157/14), 14 June 2019, available at: <https://bit.ly/2RzjAVU>.

⁵⁴⁹ Information provided by different Border Guard Units in Białystok, Kętrzyn, Przemyśl, Lesznowola and FIPP, 2022.

⁵⁵⁰ UN Committee against Torture, Concluding observations on the seventh periodic report of Poland, 22-24 July 2019, available at: <https://bit.ly/36qh3BL>.

⁵⁵¹ Commissioner for Human Rights, "Uwagi końcowe Komitetu Przeciwko Torturom wobec Polski" available at: <https://bit.ly/2GmKzNP>. The CPT visited 3 detention centres in Poland in 2022 – in Wędrzyn, Biała Podlaska and Białystok, available (EN) at: <https://bit.ly/42q5Des>.

families with children. He underlined that none of the detention centres was an appropriate place for children. According to him, detention may have a negative and irreversible impact on development and psychophysical condition of a child, especially with a traumatic migration experience, as these facilities are not suitable places for children. According to the Commissioner Border Guard rarely release children whose mental health deteriorated sharply after being placed in a detention centre and justified the hospitalization.

The Commissioner also pointed out that none of the detention centres guarantees the proper implementation of the children's constitutional right to education because the content and the form of the didactic and educational activities do not implement a minimal scope of the teaching program.

He also pointed out that in the temporary detention centre in **Czerwony Bór**, there were no common social rooms for foreigners, which forced them to spend most of the day in the staircase. Additionally, there was a lack of appropriate rooms adapted to the needs of children detained in the facility. Ombudsman noted that in a detention centre in **Kętrzyn** families were placed in containers that did not have sanitary facilities. The sanitary facilities were located several hundred meters away, which due to weather conditions may endanger their health. Moreover, the number of sanitary containers was too small compared to the number of foreigners placed in the detention centre. It was also noted that two families were placed in one container which did not respect their right to privacy and forced the migrants to separate their parts of living space with sheets and blankets.⁵⁵²

In the opinion of the Commissioner for Human Rights, the Commissioner for Children's Rights,⁵⁵³ HFHR and other NGOs in Poland, child detention should be forbidden by law in all cases because detention, regardless of children's migration status and their parents' decisions, can never be in the best interest of a child, violates the children's rights and may have a negative effect on children and their further development.⁵⁵⁴

As of 2022 detention decisions in the courts in Biała Podlaska, Lublin, and Białystok still did not consider the best interest of the child or did not consider the individual situation of the child.⁵⁵⁵ When placing a child in a guarded centre together with parents, the courts do not mention children in a justification of the detention decision.⁵⁵⁶ In addition, the courts place families in guarded centres for a maximum period of time, rather than for the shortest period.⁵⁵⁷ Further, courts did not order any further medical or psychological examination in 2020 and did not interview children, but instead relied on the documents presented by the Border Guards.⁵⁵⁸ Children's detention is ordered automatically, without an individual assessment of their situation and needs. Furthermore, justifications for the courts' decisions were adapted from the BG application for prolonging the detention. Moreover, some courts treated detention as a form of punishment for crossing the border illegally.⁵⁵⁹

In October 2020 the Regional Court in **Olsztyn** released an unaccompanied child who applied for asylum in Poland. In this case, Border Guard assumed that his friend (not related) with whom he was travelling

⁵⁵² Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>.

⁵⁵³ Commissioner for Child's Rights, "Wystąpienie do Prezesa Rady Ministrów, 3 December 2018, available in Polish at: <https://bit.ly/2TCZ45d>.

⁵⁵⁴ HFHR, "Rights of persons deprived of liberty-fundamental legal and practical issues. HFHR perspective", July 2018, available at: <https://bit.ly/2SktNaF>.

⁵⁵⁵ Information provided by HFHR and SIP, February 2023.

⁵⁵⁶ HFHR, Poland submissions on ending immigration detention of children to the UN Special Rapporteur on the Human Rights of Migrants, May 2020, available at: <https://bit.ly/3VzUmpC>; SIP, Information on the observance of human rights under the UN procedure of the Universal Periodic Review, March 2022, available (EN) at: <https://bit.ly/3nx9pDY>.

⁵⁵⁷ HFHR, „Prawa osób pozbawionych wolności”, 2018, available (PL) at: <https://bit.ly/3NDBTqo>.

⁵⁵⁸ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at <https://bit.ly/3pmM6dS>.

⁵⁵⁸ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020

⁵⁵⁹ HFHR, "Research on the applicability of the best interests of the child principle as the primary consideration in detention decisions as well as the alternatives to detention, Marta Górczyńska, Daniel Witko, 2017. "Information on the observance of human rights under the UN procedure of the Universal Periodic Review," SIP, March 2022, available (EN) at: <https://bit.ly/3nx9pDY>.

was his legal guardian. During his 8 months detention in detention centre in **Kętrzyn**, Border Guards did not examine the relations between these two boys.⁵⁶⁰ In this case, the Regional Court in Olsztyn awarded compensation for unjust detention in April 2022.⁵⁶¹

On 1 March 2023, the Court of Appeals of Warsaw upheld the judgment of the District Court of Warsaw, awarding a compensation in the amount of 72,500 pln to a family detained in guarded centre for 2.5 months. The court underlined that, according to ECtHR's jurisprudence, a family should be placed in detention only after having conducted an assessment regarding the possibility of applying less severe measure. The Court rule that the initial decision of issuing the detention order ignored the best interest of a child principle, and evaluated that it had caused a deterioration in the family's mental state, as well as the impossibility for the child to attend school. Additionally, the it was noted that the detainees were stripped naked while being admitted to the detention centre, had limited access to the computer room, their phones were taken from them and they could not move freely in the detention centre.⁵⁶²

On 5 April 2023, the European Court of Human Rights communicated the case *M.S.T and others v. Poland*, lodged on 10 August 2022. The case concerned the detention family with a child for 6 months in the Kętrzyn detention centre, following their Dublin transfer from Germany to Poland. Three applicants complained that their prolonged detention violated article 3 art 5 par 1 (f) and art 5 par. 4 and article 8 of the Convention.⁵⁶³

On 23 February 2021, the European Court of Human Rights communicated the case of *Z.E. and Others against Poland*.⁵⁶⁴ The application was lodged on 17 January 2017 and concerned a single mother with four children from Chechnya, victims of domestic violence, placed in the detention centre in Kętrzyn for more than 10 months.⁵⁶⁵ The applicants complained that their right to private and family life, freedom from torture, unlawful detention had been violated. The prolonged deprivation of liberty had in fact a negative impact on the psychological state of the children. Moreover, according to Polish law, the woman should not have been placed in a guarded centre at all due to her experience of domestic violence. Other measures could have been applied to the family to ensure the proper course of the proceedings involving them, which did not involve deprivation of liberty. However, this had not been adequately taken into account. The family also claimed that their procedural rights had been violated. They had not received a request to extend their detention and had not been provided with ex officio legal aid, and their case had been considered by the court with considerable delay. The case was struck out of the list on 1 July 2022, as a friendly settlement was reached.

On 8 January 2018, the European Court of Human Rights communicated the case of *M.Z. and Others against Poland*.⁵⁶⁶ The application was lodged on 25 April 2017 and concerned a family with two children from Tajikistan, placed in the detention centre in **Przemyśl** for more than 8 months. During their detention, the mental state of the applicant was worsening, and she suffered from depression and showed symptoms of adjustment disorder. She tried to commit suicide and she was in a psychiatric hospital a few times. The applicants complained that their detention resulted in inhuman and degrading treatment; was arbitrary and contrary to the domestic law. Moreover, the situation of children was not considered, and the length of detention had an impact on their family life. An application for compensation for the unlawful detention of the family was submitted and will be considered by the Regional Court in Warsaw. The motion was based, among others, on the fact that the family was deprived of liberty, even though the applicant's psychophysical condition indicated that she was a victim of violence and that her health deteriorated because of detention. The application also emphasised that the impact on minor children was not

⁵⁶⁰ Regional Court in Olsztyn, VII KZz 420/20, 30 October 2020.

⁵⁶¹ SIP, Compensation for wrongful imprisonment of an unaccompanied child, April 2022 Available (PL) at: <https://bit.ly/3BhiZOR>.

⁵⁶² SIP, Compensation for unjustified detention of family of three, victims of violence, 25 April 2023, available at:

⁵⁶³ ECtHR, *M.S.T. and others against Poland*, no. 40464/22.

⁵⁶⁴ ECtHR, *M.Z. and Others against Poland*, Application No 79752/16, lodged on 25 April 2017, available at: <https://bit.ly/3aAVOAJ>.

⁵⁶⁵ *Z.E. and Others against Poland*, Application no. 4457/18 available in English at <https://bit.ly/39bqig4>.

⁵⁶⁶ ECtHR, *M.Z. and Others against Poland*, Application No 79752/16, lodged on 25 April 2017, available at: <https://bit.ly/3aAVOAJ>.

investigated properly when deciding on detention.⁵⁶⁷ On 22 July 2021, the case was struck out of the list due to the Government's declaration concerning the complaints under Article 5 § 1 and 4 and Article 8 of the Convention, as regards the arrangements for ensuring compliance with the undertakings under these provisions. The Court also declared the remainder of the application inadmissible.

On 10 April 2018, the European Court of Human Rights issued a judgment in the case of ***Bistieva and others against Poland***. The case concerned a family of five, placed in the detention centre in Kętrzyn for almost 6 months. The court ruled that their right to family life was violated, and Polish authorities did not assess the impact of the detention on the family, did not consider alternatives to detention and did not view detention as a measure of a last resort. Furthermore, the court held that no sufficient reason was provided to justify the detention and the best interest of the child was not taken into account. The court held that the family was in the detention centre for too long and the preceding asylum procedure concerning a family with children should be conducted faster and with greater diligence. Proceedings of execution of that judgment take place before the CoE Committee of Ministers. In June 2019 the government presented an Action Report on the implementation of the judgment in this case. According to the government, alternatives to detention are taken into account in cases of families with children, detention procedures are standardized, an identification system of vulnerable groups is developed and implemented, and asylum cases persons in detention are treated with priority by the asylum authorities. Moreover, the guarded centres are adjusted to the needs of minors, children have access to education and medical care. Additionally, the *Bistieva* judgment has been translated into Polish, published on the Ministry of Justice website and disseminated among asylum authorities and the Border Guard. Hence, the Polish government stated that the general measures adopted are sufficient and Poland fulfilled its obligations.

On the other hand, according to HFHR, the general measures taken by Poland are not sufficient because the amendments in Polish law are not always applied in practice and Polish courts, placing children in the detention centre, do not refer to the child's best interest and do not treat children as a part of the proceedings, ignoring their presence. Furthermore, the courts rely on the information provided by the Border Guard and disregard independent psychological opinion on the negative impact of detention on children. Detention is not applied as a measure of last resort but rather it is maintained for the maximum period.⁵⁶⁸

On 29 January 2019, the European Court of Human Rights communicated the case ***R.M. and Others against Poland***. The application was lodged on 26 February 2018 and concerned family with three minor children, placed in the detention centre in Kętrzyn for almost eight months. The family was transferred to Poland under Dublin III regulation. Detention was prolonged despite the psychological problems of one of the children. The applicants presented an expert opinion but the courts extended their detention. The applicant complains that the detention of her children, then aged eleven and three years, constituted treatment contrary to Article 3 of the ECHR and her detention was also arbitrary, unjustified and unnecessary. The applicant also stated that placing and continuation of their detention had violated Article 5(4) of the ECHR as she had not received Border Guard motions on the prolongation of their detention. Additionally, she complained that detention was a disproportionate interference with their right to respect their family life.⁵⁶⁹ On 9 February 2023, ECtHR issued a judgment in this case. The Court found that the 7-month detention of the family with children violated the European Convention on Human Rights, specifically the prohibition of unlawful detention and the right to family life. For the first time, the Court noted that failure to inform foreigners about the planned extension of their detention violated their right to a fair procedure. The ECtHR also admitted that the foreigners concerned by the case should know what information about their life, the legal and psychophysical situation is provided to the court - so that they have a chance to supplement it.⁵⁷⁰

⁵⁶⁷ HFHR, *Warsaw court to rule on moral damages for family's wrongful immigration detention*, 6 February 2019, available at: <https://bit.ly/3aEq50Y>.

⁵⁶⁸ Information provided by the Helsinki Foundation for Human Rights, 7 January 2023, available at: <https://bit.ly/3oMKrAW>.

⁵⁶⁹ ECtHR, *M.R and others against Poland*, Application No 11247/18, lodged on 26 February 2018, available at: <https://bit.ly/30TcvCz>.

⁵⁷⁰ ECtHR, Judgment, 9 February 2023, *M.R and others against Poland*, available (FR) at: <https://bit.ly/3M0Us6s>.

On 6 September 2019, the Polish government submitted a unilateral declaration in the case of *Bilalova against Poland* and acknowledged a violation of Article 8 of the ECHR. The case was communicated in 2014 and concerned administrative detention of a mother with five minor children aged between 4 and 10 for three months. The applicant complained that Polish authorities never assesses the child's best interest and the alternatives to detention were not considered. On 25 March 2020, the European Court of Human Rights published its judgment and found that the detention of the children amounted to a violation of Article 5 (1) (f).⁵⁷¹ In the opinion of the Court, the conditions at the detention centre were similar to penitentiary institution, and therefore the court found the detention unlawful. Additionally, the Court noted that Polish authorities had not treated detention as a measure of last resort and did not assess the possibility of applying alternatives to detention. The Court also found that their stay in the guarded centre was too long.⁵⁷²

In June 2020, the court issued a third judgment on children's detention in Poland in cases of **A.B. and Others**.⁵⁷³ The ECtHR found a violation of the right to family life of the child because the Polish authorities did not examine the child's best interest when deciding on the detention of a family, did not treat detention as a measure of last resort and did not examine the possibility of applying alternatives to detention. The Court stated that this violation had occurred even if there were grounds to believe that the family would leave Poland after applying for asylum in Poland.⁵⁷⁴

On 3 March 2022, the European Court of Human Rights issued a judgment in the case of *Nikoghosyan and others v. Poland*. The case concerned a family of six from Armenia and their automatic detention for six-months without an individualised assessment of their particular situation and needs. The applicants complained also that the authorities had automatically relied on the information provided by the border guards. In its judgment, the Court reiterated its finding that the domestic courts which extended the applicants' detention, did not give sufficiently thorough and individualized consideration to the applicants' situation. The decision concerning the second applicant, issued on 5 January 2017 by the **Biała Podlaska** District Court contained a number of errors, such as the fact that the second applicant was referred to using a masculine form or as "the son of ... In the opinion of the Court, the decision can be seen as not based on a throughout assessment of the applicants' individual situation. Additionally, the Court highlighted that the domestic courts ignored the fact that the first applicant was accompanied by his three minor children and did not give any consideration when placing them in detention. Furthermore, the domestic courts did not refer to the fact that, while in detention, the second applicant had given birth to her fourth child.

Court reiterated that the child's best interests cannot be confined to keeping the family together and that the authorities must take all the necessary steps to limit, as far as possible, the detention of families accompanied by children and effectively preserve the right to family life.

Finally, the Court concluded that in this case, the detention of both the adult and the child applicants, for a period of almost six months, was not a measure of last resort for which no alternative was available, and the national authorities had to act with greater speed and diligence. In this case, the Court ruled there was a violation of Article 5 § 1 (f) of the Convention.⁵⁷⁵

On 10 January 2023, the ECtHR communicated the case *V.M. and Others against Poland*, no. 40002/22. The case concerns the ongoing detention in **Biała Podlaska** of an Armenian mother and her two children

⁵⁷¹ ECtHR, *Dagmara BILALOVA against Poland*, Application No 23685/14, lodged on 25 March 2014, available at: <https://bit.ly/37kQJu3>.

⁵⁷² HFHR, *Kolejny wyrok ETPCz w sprawie detencji*, available at: <http://bit.ly/2MMmpDk>.

⁵⁷³ ECtHR, cases of A.B. AND OTHERS against Poland, Applications No 15845/15 and 56300/15, lodged on 4 November 2015, available at: <http://bit.ly/3kJFTFm>.

⁵⁷⁴ HFHR, ETPC po raz trzeci stwierdził bezprawność detencji dzieci uchodźców w Polsce, available at: <http://bit.ly/3kLijl8/>.

⁵⁷⁵ ECtHR, *CASE OF NIKOGHOSYAN AND OTHERS v. POLAND*, Application no. 14743/17, available at: <https://bit.ly/36062N3>.

pending their asylum and deportation proceedings. The mother's mental health deteriorated heavily after she had a miscarriage while in detention.⁵⁷⁶

In May 2022, Legal Intervention Association submitted the complaint to ECtHR on behalf of the family who had been staying in guarded centres for foreigners for over 6 months. The case concerns a family from Iraq (parents with two children) who crossed the Polish-Belarusian border. The family spent a total of 21 days at the border. At that time, the family was pushed 7 times by the Polish officers across the border. The stay at the border was a traumatic experience for the whole family, in particular, it had a negative impact on the physical and mental health of two children. Additionally, foreigners experienced violence from the Belarusian Border Guard.

After crossing the border, the family was placed in the Guarded Centre for Foreigners in **Lesznowola**, where they submitted an application for international protection. After 4 months, the family was transferred to the Guarded Centre for Foreigners in Kętrzyn. In total, the family was detained for over 6 months. A long stay in a guarded centre for foreigners had a negative impact on the mental state of the children and deepened their trauma related to the circumstances of crossing the Polish-Belarusian border. One of the children has been struggling with health problems since being placed in detention.

Furthermore, both the Border Guard and the national courts ignored the fact that the family had experienced violence, and therefore, according to Polish law, they should not have been placed in a guarded centre for foreigners at all. The state authorities also failed to take into account the best interests of minor children in any way. Moreover, the placement of migrants in detention was arbitrary, did not constitute a last resort and also violated the right to family life and children's rights to education. No classes were held in the Guarded Centre for Foreigners in **Lesznowola**, and foreigners were not allowed to leave the centre (e.g., to attend school).

In August 2022, Legal Intervention Association submitted another complaint to the ECtHR. The case concerns a married couple with an almost 3-year-old child who spent almost 6 months in a guarded centre for foreigners. Despite repeated references to the mother's poor mental condition and her depressive reaction to the situation, confirmed by a psychological opinion, administrative authorities and courts decided to place and extend the family's stay in a guarded centre. The repeatedly cited arguments about the obligation to take into account the best interest of a minor child and to examine the impact of detention on the correctness of his further psychophysical development were not taken into account at any stage. In this case, the child suffered from excessive anxiety and withdrawal as well as sleep disturbance and stomach problems. At the same time, the child was constantly exposed to stress related to the stay in detention, constant supervision of officers, explosions and gunshots caused by the training of Border Guard officers. Alternative measures to detention were not sufficiently considered. Both the mother and the child were not provided with permanent psychological care, even with an independent psychologist. The conditions of the family's stay in the guarded centre were very difficult for the family, including due to the prison nature of the facility, the excessively limited size of the room, insufficient portions of food, limited opportunities to spend time outdoors, and lack of sufficient protection against the summer heat. There were also numerous violations of procedural rights in the case, mainly due to the failure to exercise the rights of defence and the excessive length of the proceedings.⁵⁷⁷

In November 2019, a complaint to the UN Human Rights Committee was submitted to challenge another case of child detention. It addressed the detention of an asylum-seeking family (a single father with two children) in the detention centre in **Biała Podlaska** for 10 months, following their Dublin-transfer to Poland in November 2018. In this case, the courts did not properly assess the children's situation and their best interests. The District Court, prolonging the detention of the family, considered only the opinion of the Border Guard stating that there were no contradictions for the further children's stay in the detention centre. Likewise, Border Guard refused to release the family even though the mental condition of the

⁵⁷⁶ ECtHR, *Application no. 40002/22 V.M. and Others against Poland*, lodged on 10 August 2022 communicated on 10 January 2023, available (EN) at: <https://bit.ly/42a6lg3>.

⁵⁷⁷ SIP, We submit a complaint to the ECtHR against unlawful detention of a family with a child, September 2022, available (EN) at: <https://bit.ly/42qYOJJ>.

children was deteriorating. On 10 February 2021, the case was communicated to the Polish government.⁵⁷⁸ The case is still pending as of April 2023.

4. Duration of detention

Indicators: Duration of Detention

- | | |
|--|-----------|
| 1. What is the maximum detention period set in the law (incl. extensions): | 6 months |
| 2. In practice, how long in average are asylum seekers detained? | See below |

The decision to detain an asylum seeker is issued for a period up to 60 days by a court, upon request from the Border Guard.⁵⁷⁹ If a foreigner presents an asylum application during the stay in the detention centre, the period of detention is prolonged only if the [Grounds for Detention](#) of an asylum seeker mentioned before are met. If so, then the applicant's stay in the detention centre is prolonged for up to 90 days from the day of filing the asylum application.⁵⁸⁰ The period of a stay in a detention centre can also be prolonged if before the end of the previous period of detention, the final decision concerning international protection was not issued and the reasons to detain the applicant still exist. In this case, detention can be prolonged by a court for a specified period of time. There are no timeframes set in law other than the maximum total period of asylum seekers' detention, which is 6 months for asylum seekers and maximum 18 months for persons facing removal.⁵⁸¹ Prolongation is not possible if the procedure concerning reasons of detention is still ongoing e.g., delay cannot be attributed to any fault on the part of the applicant.⁵⁸² However, this is not reflected in courts' decisions.

If the foreigners apply for asylum from detention, their stay in detention can be prolonged for 90 days and if their application is rejected, their stay in detention can be prolonged even if they lodge an appeal against the negative asylum decision. If the asylum proceedings will end with a final decision within 6 months of applying for refugee status, asylum seekers will spend their whole asylum proceedings in detention, but no information is available on whether that is the case for most of them.

C. Detention conditions

1. Place of detention

Indicators: Place of Detention

- | | | |
|--|------------------------------|--|
| 1. Does the law allow for asylum seekers to be detained in prisons for the purpose of the asylum procedure (i.e. not as a result of criminal charges)? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| 2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

There are two types of detention centres in Poland, both used for detaining asylum seekers and foreigners subject to return procedures, namely guarded centres and so-called rigorous detention centres.

All detention centres are for migration-related purposes and the Border Guard is in charge of their management. Asylum seekers are never placed in regular prisons with ordinary prisoners but are detained together with migrants in an irregular situation in a guarded centre or rigorous detention centre. There is no special facility where only asylum seekers are detained.

⁵⁷⁸ HFHR, Pierwsza sprawa z Polski dotycząca detencji cudzoziemców przed Komitetem Praw Człowieka ONZ, available (PL) at: <http://bit.ly/2MOh8v3>.

⁵⁷⁹ Article 89(1) Law on Protection.

⁵⁸⁰ Article 89(2)-(3) Law on Protection.

⁵⁸¹ Article 89(4)-(5) Law on Protection; Article 404(5) Law on Foreigners.

⁵⁸² Article 89(4a) Law on Protection.

The design and layout of some of the centres create the impression of a prison-like environment: thick walls, bars in the windows (**Krosno, Białystok, Przemyśl**) and on the corridors. In addition, all centres are surrounded by high walls topped with barbed wire.⁵⁸³

1.1. Guarded centres

Until August 2021, there were 6 guarded detention centres in Poland, which were generally profiled according to demographics: **Lesznowola, Białystok, Przemyśl**, and **Krosno Odrzańskie** were for men. Women, married couples, and families with children were placed in **Kętrzyn, Biała Podlaska** (closed for renovation, re-opened at the end of 2021)⁵⁸⁴ and **Przemyśl**. Unaccompanied children are placed in the detention centre in **Kętrzyn**.

Due to the situation at the Polish-Belarusian border, the number of guarded detention centres increased to 9 (opened in August 2021) and the number of places there increased to 2,256 (compared to 595 in 2020, 494 in 2019, 590 in 2018 and 608 in 2017).

The detention centre in **Biała Podlaska** (which was in the open centre) was closed in June 2022. The detention centres in **Wędrzyn** and **Czerwony Bór** - in August 2022. At the same time, the new department for families with children at the detention centre in **Lesznowola** will be completed in 2023 and will have a capacity of 200 places. Starting from March 2023, the detention centre in **Kętrzyn** will only accommodate male detainees. On the other hand, the centre in **Biała Podlaska** is only detention centre for families with children.

As of December 2022, the maximum capacity of detention centres was 1,152 places.⁵⁸⁵

Detention centres for foreigners are located in:

Centre	Maximum capacity in 2020	Occupancy end 2020	Maximum capacity in 2021	Occupancy end 2021	Maximum capacity in 2022	Occupancy end 2022
Biała Podlaska	130	0	188	0	130	74
Biała Podlaska (adopted open centre)			200	152	0	0
Białystok	122	40	141	134	159	155
Czerwony Bór			147	122	0	0
Lesznowola	73	38	192	147	392	158
Kętrzyn	120	69	478	392	220	48
Krosno Odrzańskie	64	39	80	74	80	79
Wędrzyn			700	612		
Przemyśl (guarded centre)	86	62	145	81	147	131
Przemyśl (Arrest for Foreigners)			37	23	24	8
Total	595	248	2,308	1,737	1,152	535

Source: Border Guard, 1 February 2022, 29 March 2022, 25 January 2023, 7 March 2023.

⁵⁸³ Information BG, Przemyśl 10 March 2023, Krosno 3 March 2023.

⁵⁸⁴ Information of the Border Guard Headquarters, 4 March 2022.

⁵⁸⁵ Information from BG Headquarters, 25 January 2023.

The profiles of detention centres were changed a couple of times. As of April 2023, in five detention centres (**Kętrzyn, Krosno Odrzańskie, Lesznów, Białystok and Przemyśl**)⁵⁸⁶ there are only male detainees and families and single women are placed in the **Biała Podlaska** detention centre.

Families were placed together in one room or in the containers in **Kętrzyn**⁵⁸⁷ but due to overcrowding two families were placed in one container which violated their right to privacy.⁵⁸⁸ In the detention centre in **Kętrzyn** there is a separate section designated for unaccompanied irregular migrant children (15 places) and 2 places (1 room) for individuals with a certificate of disability.⁵⁸⁹

Generally, single men were placed in rooms according to their nationality or preferences, except for **Wędrzyn** and **Czerwony Bór**. According to Border Guards, there is a possibility to change a room on a foreigner's justified demand and availability of the rooms.⁵⁹⁰

Polish authorities removed bars from the windows in some detention centres and installed special secure windows in **Lesznów, Kętrzyn and Biała Podlaska** (in a reopened detention centre).⁵⁹¹

Conditions were particularly difficult at the temporary centre in **Wędrzyn**. Foreigners had very limited access to medical assistance (including physicians and psychologists) as well as had difficulties accessing computers and the Internet. According to the Ombudsman, the centre had only isolating functions.⁵⁹² The number of toilets available and the level of hygiene in the location were both highly unsatisfactory.⁵⁹³ Moreover, the living rooms and TV rooms had an insufficient number of tables, stools and chairs, as well as cabinets for personal belongings in relation to the number of accommodated foreigners. The rooms designated for foreigners had no handles on their doors, and disorder was prevalent in the common areas, such as corridors, washrooms, bathrooms, toilets, computer rooms, and TV rooms.⁵⁹⁴

1.2. “Rigorous detention centres” (*areszt dla cudzoziemców*)

The term, literally translated as “arrests for foreigners”, replaced that of “pre-removal centres” as of 1 May 2014. These facilities impose more rigorous conditions of detention than guarded centres.⁵⁹⁵ Until December 2012 there were 5 such centres. At the end of 2022, there were 24 places in **Przemyśl** for men and women. The building is single unit with a separate entrance.⁵⁹⁶ 31 foreigners in total were placed in the **Przemyśl** centre in 2022.⁵⁹⁷ The facility is covered by video surveillance that includes residential cells, public areas and the outside area 24 hours per day.⁵⁹⁸

An asylum seeker can be placed in a more rigorous detention centre for foreigners only if there is a risk that they will not obey the rules in force in a guarded centre or the applicant has already disobeyed these

⁵⁸⁶ In Białystok, in the past there was also an arrest for foreigners which was closed. Since August this arrest was reopened for single men as a temporary place of detention for single men stopped at the border. It means that migrants are placed there for some weeks and transported to men detention centres.

⁵⁸⁷ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus”, Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁵⁸⁸ Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>.

⁵⁸⁹ Information provided by the Border Guard, 14 and 25 January 2019; Article 414(4) Law on Foreigners.

⁵⁹⁰ Information provided by the Border Guard, 18 January 2020.

⁵⁹¹ Information provided by Border Guard, 5 February 2021.

⁵⁹² Commissioner for Human Rights, available in Polish available at: <https://bit.ly/3M7oXpx>.

⁵⁹³ See also: Poland: Cruelty Not Compassion, At Europe's Other Borders, April 2022, available in English here: <https://bit.ly/3mOh2FV>.

⁵⁹⁴ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁵⁹⁵ Order No 23 of the Ministry of Interior of 1 July 2014 on the designation of areas in which the arrest for foreigners is executed.

⁵⁹⁶ Information provided by the Border Guard, 14 and 25 January 2019.

⁵⁹⁷ Information provided by Border Guards for SIP, 17 February 2023.

⁵⁹⁸ Information provided by BG, 10 March 2023.

rules.⁵⁹⁹ These detention centres are more prison-like than guarded centres. An asylum seeker placed in such a centre cannot freely move around (he or she is closed in the ward), cannot go outside for a walk whenever he or she wants except for two hours per day etc.⁶⁰⁰ In practice, it means that foreigners have to stay in a cell for most of the day and have limited access to additional activities. The foreigners have limited access to the internet and the phone.

According to the Commissioner for Human Rights, sanitary and living prison-like conditions are not sufficient and not meeting the provisions of the international standards of the rights of persons in administrative detention. One of the problems was the lack of sanitary corners in the cells. Individuals, therefore, have to call an officer every time they need to use the toilet. In the case of high occupancy in the facility, this can result in prolonged waiting times to deal with physiological needs. The living cells are permanently monitored and furniture items are permanently fixed to the floor.⁶⁰¹

Foreigners have a right to use two walking yards, twice a day by one hour. On the other hand, in the opinion of the representatives of the Commissioner, health condition of foreigners placed in this facility was justifying their release from detention. Furthermore, there were, among others, 6 Afghan nationals, who were previously not placed in detention centre for foreigners.⁶⁰²

The Commissioner also pointed out that the very mode of placing foreigners in rigorous detention raises concerns. The risk that a foreigner may not adhere to the rules of their stay is considered to be a sufficient ground for placing in this type of facility. However, the concept of "risk" is vague. If it does not have to be assessed on the basis of the facts of a specific case, it may lead to abuse of detention.

Previously, the KMPT analysed court decisions on the detention of foreigners in the Guarded Centre and Detention Centre for Foreigners in **Przemyśl**. It was found that, in some situations, sufficient arguments for doing so - bypassing the guarded centre - included crossing the border in violation of the law, lack of documents or the assumption that Poland was supposed to be a transit country for the foreigner. And it did not appear from the documentation that the persons actively resisted arrest or demonstrated in any way that they would not comply with the regulations of the guarded centre. According to the Commissioner, the risk of non-compliance with the rules of stay in a guarded centre should be real and examined on a case-by-case basis, based on the specific attitude and behaviour of the foreigner.⁶⁰³

2. Conditions in detention facilities

Indicators: Conditions in Detention Facilities

- | | | |
|---|---|--|
| 1. Do detainees have access to health care in practice? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| ❖ If yes, is it limited to emergency health care? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |

The Law on Foreigners contains a section on detention conditions, rights and obligations of foreigners.⁶⁰⁴ Some practices relating to the functioning of the centres have now been framed into legal provisions.

2.1. Overall conditions

There were six detention centres (**Białystok** and **Czerwony Bór** under the supervision of the same branch of Border Guards, and **Kętrzyn**, **Biała Podlaska**, **Przemyśl**, **Lesznów**, **Wędrzyn** and **Krosno**

⁵⁹⁹ Article 88a(2) Law on Protection.

⁶⁰⁰ Centrum Pomocy Prawnej im. Haliny Nieć, K. Przybysławska (Ed.), *Monitoring of Forced Returns from Poland July 2014-June 2015*, 35-36.

⁶⁰¹ Commissioner for Human Rights, *Cudzoziemcy zbyt łatwo trafiają do aresztu – zamiast do ośrodka*. Wystąpienie do MSWiA, Foreigners are too easily taken into custody - instead of a centre. Submission to the Ministry of the Interior and Administration, available in Polish at <https://bit.ly/42n27ly>.

⁶⁰² Commissioner for Human Rights, *Visit in detention centre in Przemyśl*, available at: <https://bit.ly/3pm3PSA>.

⁶⁰³ Commissioner for Human Rights, *Cudzoziemcy zbyt łatwo trafiają do aresztu – zamiast do ośrodka*. Wystąpienie do MSWiA, Foreigners are too easily taken into custody - instead of a centre. Submission to the Ministry of the Interior and Administration, available in Polish at <https://bit.ly/42n27ly>, NPM, Report on a visit in arrest in Przemyśl, 30 January 2023, available at: <https://bit.ly/3NI3nel>.

⁶⁰⁴ Articles 410-427 Law on Foreigners.

Odrzańskie – were also under the supervision of the same branch of the Border Guard). **Białystok, Lesznowola and Biała Podlaska** have been renovated in recent years.

Detention centres in **Wędrzyn, Czerwony Bór** and **Lesznowola** are located in the forest area and far from any public transportation which is a problem for foreigners released from detention centres. The temporary detention centre in **Wędrzyn** was located on an active military range where military manoeuvres take place and explosions are registered.⁶⁰⁵ Foreigners released from **Wędrzyn** were taken to the closest city by the Border Guards. Very often foreigners are left alone without any assistance and information on where they should go or how they should reach the reception centre in **Dębak**.⁶⁰⁶ It was reported that foreigners were released at night from the detention centre and faced difficulties in reaching the reception centres.⁶⁰⁷

There were cases of overcrowding in detention centres in 2022: in **Lesznowola, Przemyśl, Wędrzyn, Białystok**, and in **Kętrzyn**.⁶⁰⁸ Since 25 April 2022, the standard of 4 m² per person was reinstated by the border guards in detention centres for families. In detention centres for men, the area per person was temporarily reduced depending on the needs in 2022.⁶⁰⁹

Generally, detainees are accommodated in rooms, which cannot be locked at night for security matters.⁶¹⁰ Conversely, from August to the beginning of December 2021, approximately 100 people, mainly families with children, from different countries and religions were placed in a sports hall in **Kętrzyn**⁶¹¹, which was a large open space, without any portable screen or a partition. Only beds and tables were provided and the access to Internet, phones and legal assistance was very restricted.⁶¹² Additionally, the foreigners (120) were placed in containers in detention centres in **Lesznowola** and **Kętrzyn**, with the cases of two families in one container.⁶¹³

There were no rules in placing foreigners in detention centres in **Wędrzyn**⁶¹⁴, **Czerwony Bór** and **Kętrzyn**, which means that people of different nationalities and religions (or those who gave up their religion) were placed in the same facilities which increases tense atmosphere and insecurity. As a result, there were conflicts between foreigners and the use of violence (including fights).⁶¹⁵

The Supreme Audit Office reported that the conditions in **Wędrzyn** and the high number of foreign residents placed there were leading to growing frustration and conflicts. As evidence of this, there were seven cases of extraordinary situations reported to the District Court in **Zielona Góra**. These included incidents such as a foreign resident successfully escaping, suicide attempts, rebellions, fights, and

⁶⁰⁵ Commissioner for Human Rights, Visit in detention centre in Wędrzyn in October 2021, <https://bit.ly/3HrbNQJ>.

⁶⁰⁶ Commissioner for Human Rights, meeting with the Commander-in-Chief of the Border Guard, available at: <https://bit.ly/3vp4yqa>.

⁶⁰⁷ RPO pyta o pomoc dla cudzoziemców zwalnianych z ośrodków strzeżonych. Straż Graniczna odpowiada, RPO asks about assistance for foreigners released from guarded centres. The Border Guard responds, February 2023, available in Polish: <https://bit.ly/3KV0KD7>.

⁶⁰⁸ Information provided by Border Guards Headquarters for SIP, 18 February 2022.

⁶⁰⁹ BG Headquarters, information 17 January 2023.

⁶¹⁰ CPT Report 2018, available at: <https://bit.ly/2HVZltc>.

⁶¹¹ REPORT from periodic visitation of the detention Centre for Foreigners in Kętrzyn, conducted by penitentiary judge of the District Court in Olsztyn on 24.11.2021 for the period from 1 November 2019 to 1 November 2021.

⁶¹² Remarks to the Committee of Prevention of Torture, Association for Legal Intervention, March 2022, available in English at <https://bit.ly/3vVzbSP>.

⁶¹³ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶¹⁴ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish at: <https://bit.ly/3URYZek>, 10.

⁶¹⁵ Information from HFHR, April 2022. Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>,

aggressive behaviours.⁶¹⁶ Foreigners are subject to constant monitoring, which is disproportionate to their situation and applied in the penitentiary system only to particularly dangerous prisoners.

In some detention centres, the food is provided by external providers (**Biała Podlaska, Wędrzyn, Czerwony Bór**), while in others it is prepared in the centres (e.g., in **Białystok**). There are specialised diets available e.g., vegetarian, vegan, adapted to Muslims, adapted to pregnant or breastfeeding women or diabetics. Other diets may be prescribed by a physician and should be followed accordingly.⁶¹⁷ In the detention centre in **Czerwony Bór**, there was no canteen for foreigners separated in the facility.⁶¹⁸ Generally, foreigners complained about the food in 2022 as it was not the kind of food they were used to eating.⁶¹⁹

The main equipment in a room in the detention centre consists of beds, small wardrobes and a small table. In **Wędrzyn**, the number of equipment was reported as inadequate for the number of foreigners placed in the buildings (67% of tables were missing, and 34% of chairs were missing).⁶²⁰ In **Przemyśl** and **Wędrzyn** the windows in the foreigners' rooms were covered by toilet paper and the blankets were hung to cover from the light.

If detainees cannot have all their belongings in their room, they have to place them in the external storage space in the centre. Some of their belongings are also placed there for safety reasons and can be accessed only upon request. In the case of **Wędrzyn**, foreigners' belongings were placed in an internal storage space.⁶²¹

In **Lesznowola**⁶²² (also in **Krosno Odrzańskie**), there is a television in each room, gym, and outdoor pitch. NPM found that the conditions in the detention centre at Krosno Odrzańskie were unsatisfactory, indicating that the Border Guard was not fully meeting their legal obligations. This includes providing proper social services and creating an environment that allows access to cultural, educational, and sports activities, as well as promoting integration and facilitating access to the external environment for detainees. In addition, the toilets and the washing cabins were only built up to 1 m high and did not provide a cover on 3 sides.⁶²³ The most common problem in terms of administrative proceedings conducted by officers against foreigners was the language barrier and also the availability of translators.⁶²⁴

⁶¹⁶ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>,

⁶¹⁷ Commissioner for Human Rights, *Wyciąg Strzeżony Ośrodek dla Cudzoziemców w Przemyślu*, 7 February 2018, available (in Polish) at: <http://bit.ly/2EXIR4y>.

⁶¹⁸ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>,

⁶¹⁹ Report of the National Torture Prevention Mechanism on the visit detention centre for foreigners in Białystok on the implementation of the recommendations of the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment and the recommendations of the KMPT from the visit of the facility in 2018 available at: <https://bit.ly/3Mjx5n9>.

⁶²⁰ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶²¹ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶²² Commissioner for Human Rights, visit in detention centre in Lesznowola on 8 February 2022, available at: <https://bit.ly/3pm3PSA>.

⁶²³ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶²⁴ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

According to the Commissioner for Human Rights, the automatic detention of foreigners who crossed the Polish-Belarusian border limited the role of those facilities to the isolation function only.⁶²⁵ Furthermore, poor living and sanitary conditions, improper exercise of the rights of migrants and the length of stay in isolation may reach the threshold of inhuman and degrading treatment. Moreover, the level of medical and psychological care provided in detention centres is insufficient and as a result, the health of foreigners who were victims of torture could deteriorate through secondary victimization.⁶²⁶ Furthermore, the detention centres look like prisons and detention centres in **Krosno Odrzańskie**, **Białystok**, and **Przemyśl** have rooms with barred windows.⁶²⁷

The temporary detention centre in **Wędrzyn**, which is a branch of the detention centre of **Krosno Odrzańskie**, was located in military barracks, on an active military range where military manoeuvres took place, and the explosions happened regularly. That facility was adapted to the detention centre in 2 weeks (it was estimated firstly that adaption facilities in **Wędrzyn** would have taken from 20 to 40 weeks)⁶²⁸ and its capacity was 700 places. The detention centre and small walking areas were surrounded by a concertina razor wire. Foreigners were placed in several buildings, 150 people in each. Foreigners were accommodated in multi-bedrooms with a capacity of up to 24 which made it impossible in practice to create conditions ensuring at least minimum privacy. At the end of 2021, 599 foreigners were placed in the **Wędrzyn** facility and there were plans to increase capacity up to 900 places. But in June 2022 – 340 migrants were placed there and finally, this detention centre was closed in August 2022.⁶²⁹

The Supreme Audit Office assessed negatively the preparation and management of tasks by the Border Guards in **Wędrzyn** from 24 August 2021 until 31 December 2021. The facility did not comply with the law requirements in terms of infrastructure and equipment and did not guarantee the provision of the foreigners' rights. In addition, the use of outdated fire protection documentation and inadequate sanitary and hygienic conditions in **Wędrzyn** posed a threat to the health and lives of both foreigners and the Border Guard officers serving at the facility. Moreover, the rapidly increasing number of foreigners residing in **Wędrzyn** resulted in reducing the living space for one foreigner to 2 sq. m, leading to conflicts, emergencies and progressive degradation of the residential buildings, including sanitary conditions.⁶³⁰

According to the Commissioner for Human Rights, that facility does not fulfil any of the basic guarantees preventing inhuman and degrading treatment of persons deprived of liberty. The material conditions were not acceptable in the light of the minimum standards of protection of the rights of foreigners in detention and they do not fulfil the standards of decent treatment of persons deprived of liberty. In 2021, foreigners staying in **Wędrzyn** could not use all the rooms for cultural, educational and sports or religious practices. In addition, recreational and sports complex was not created.⁶³¹

Since the very beginning of the functioning of the centre in **Wędrzyn**, the biggest and most persistent problem was overcrowding of the facility. During the visit of the representatives of the Commissioner for Human Rights, the number of foreigners detained exceeded the maximum capacity which made it

⁶²⁵ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus], Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶²⁶ Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>. See also: Poland: Cruelty Not Compassion, At Europe's Other Borders, April 2022, available in English here: <https://bit.ly/3mOh2FV>

⁶²⁷ Information provided by the Border Guards, 5 February 2021, Commissioner for Human Rights, *Wyciąg, Strzeżony Ośrodek dla Cudzoziemców w Białej Podlaskiej*, 18-19 July 2018, available (in Polish) at: <https://bit.ly/2TBZ3OY>.

⁶²⁸ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, *Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski*, available in Polish: <https://bit.ly/3mWDvQY>.

⁶²⁹ Information provided by Border Guards, 25 January 2023.

⁶³⁰ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, *Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski*, available in Polish: <https://bit.ly/3mWDvQY>.

⁶³¹ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, *Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski*, available in Polish: <https://bit.ly/3mWDvQY>.

impossible in practice to exercise certain rights of foreigners detained in the centre. Furthermore, the windows were covered with toilet paper due to lack of the roller blinds, there was not enough furniture, there was nothing besides tables and stools in rooms, and clothes were stored on the floor or in plastic bags. Foreigners have had very limited access to the outside world and access to computers, scanners, printers and the Internet was restricted. This also caused problems when getting in touch with lawyers or non-governmental organisations⁶³² and created difficulties in complying with the deadline for filing appeals in asylum and detention procedures. There was no offer of recreational and sports activities.⁶³³

According to the Supreme Audit Office, in **Wędrzyn**, the storage rooms were cluttered, there were unsecured cables on the walls and floors, and foreigners' belongings were stored on the floor. Additionally, it was established that, in the buildings numbered 205A, 205B, 206A, and 206B located in **Wędrzyn**, detainees were not provided information regarding several important matters. This included information on the timing and procedures for meals, schedules for cultural, educational, and sports activities, the availability of medical staff and the timing of medical consultations, as well as information on when and where they could take walks.⁶³⁴

Amnesty International reported that the temporary detention centre in **Wędrzyn** had inadequate toilet and shower facilities. The hygiene standards were also not properly maintained, resulting in these facilities being unusable for the detainees.⁶³⁵

In November 2021 there was a riot in the **Wędrzyn** detention centre.⁶³⁶ Following the strike, the Border Guards responsible for **Wędrzyn** identified several potential risks that could lead to further strikes or non-compliance with administrative procedures. These risks included the inability of foreigners to go shopping as frequently as expected, lack of access to the Internet, limited access to legal assistance from attorneys who were also foreigners, restrictions on visits from family members due to the foreigners' inability to enter the military area, delays in processing applications for international protection, and difficulties in complying with the Rules of Conduct of the Border Guard with Foreigners who require special treatment. Moreover, the additional reports presented the following threats: lack of means to ensure full security of Border Guard officers and foreigners staying in **Wędrzyn**; lack of possibility to ensure the realization of the rights of foreigners under current legislation; the possibility of hunger protests, fights, aggression against Border Guard officers and the possibility of escapes of foreigners.⁶³⁷

In September 2021, there was a riot in **Czerwony Bór**.⁶³⁸ Later in 2022, migrants organized hunger strikes several times in **Wędrzyn**, **Biała Podlaska**,⁶³⁹ **Lesznów**, **Przemyśl** and, in 2023 in **Krosno Odrzańskie**⁶⁴⁰ and **Białystok**⁶⁴¹ due to poor conditions in those facilities and prolonged detention.⁶⁴²

⁶³² Commissioner for Human Rights, visit in detention centre in Wędrzyn in October, available at <https://bit.ly/3HrbNQJ>.

⁶³³ See also: POLAND: CRUELTY NOT COMPASSION, AT EUROPE'S OTHER BORDERS, April 2022, available in English here: <https://bit.ly/3mOh2FV>

⁶³⁴ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶³⁵ See also: Poland: Cruelty Not Compassion, At Europe's Other Borders, April 2022, available in English here: <https://bit.ly/3mOh2FV>.

⁶³⁶ Commissioner for Human Right, Riot in detention centre in Wędrzyn, in 2021, <https://bit.ly/3C1C2w6>.

⁶³⁷ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶³⁸ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶³⁹ Commissioner for Human Rights, Jak usprawnić rozpatrywanie wniosków o ochronę międzynarodową. Odpowiedź Urzędu ds. Cudzoziemców, available at: <https://bit.ly/3VPd3py>.

⁶⁴⁰ OKO.press, Kolejny strajk w ośrodku zamkniętym. Tym razem w Krośnie Odrzańskim głoduje 22 Egipcjan, Available in Polish at: <https://bit.ly/3NW2vTK>.

⁶⁴¹ Egala Association, Hunger strajk in Białystok, available in Polish at: <https://bit.ly/3BektJE>.

⁶⁴² Hunger strike in Wędrzyn. Dr. Machinska: "The center is below the prison standard; it needs to be liquidated". January 2022, available at: <https://bit.ly/340szZ>.

In the opinion of the Supreme Audit Office, conditions in Wędrzyn and restrictions on access to a physician and psychologist endangered the life and health of foreigners from 24 August 2021 to 31 December 2021.⁶⁴³

The Representatives of the Commissioner for Human Rights pointed out in the recommendations issued after one of his visits to the detention centre in Wędrzyn in January 2022, that Border Guard should remind officers of the security division of their basic obligation to treat foreigners with respect. The representatives of the Commissioner received alarming signals about the use of uncensored terms by Border Guard officers in relation to foreigners. Additionally, Border Guards address the foreigner by identification numbers. The Commissioner concluded that the centre could not ensure basic safeguards against inhuman and degrading treatment and should be closed immediately.⁶⁴⁴

The Supreme Audit Office stated that proper conditions in the detention centre in **Czerwony Bór** were not guaranteed in four residential rooms and one bathroom which resulted in the formation of fungus on the walls and ceilings of these rooms. Additionally, the Office noted that Border Guards did not implement fire protection security rules for 2 months.⁶⁴⁵

Representatives of the Commissioner for Human Rights also conducted inspections of the detention centre in **Przemyśl**. They pointed out that bars are still installed in the windows which emphasise the penitentiary nature of the facility. Additionally, in many rooms, foreigners had to hang blankets over the windows to limit sunlight during the day.⁶⁴⁶

2.2. Activities and education

As it was mentioned earlier, the profiles of some detention centres were modified in 2021-2023; for example, families with children were detained in detention centres where in the past only men were placed. In practice this meant that the infrastructure was not adjusted to the needs of minors, for example, there are no playgrounds or spaces where the activities for children could take place.

What is more, changing the profiles of detention centres made it necessary to supplement the equipment and reorganise the centre, including, for example, adjusting the education and leisure. The staff of detention centres pointed out that they were not adequately trained, particularly in the context of identifying the special needs of persons belonging to the target group.⁶⁴⁷

Moreover, not in all guarded centres there was a sports and recreation space, e.g. in Wędrzyn, Krosno,⁶⁴⁸ **Białystok**, **Kętrzyn**, and **Biała Podlaska**. In **Wędrzyn** and **Krosno** there are no recreational and sports

⁶⁴³ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶⁴⁴ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish at: <https://bit.ly/3URYZek>.

⁶⁴⁵ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>,

⁶⁴⁶ Commissioner for Human Rights, Visit in detention centre in Przemyśl in February 2022, <https://bit.ly/3pm3PSA>. RPO, Wizytacja KMPT w Pomieszczeniu dla Osób Zatrzymanych Placówki Straży Granicznej w Medyce oraz w Strzeżonym Ośrodku dla Cudzoziemców i Areszcie dla Cudzoziemców w Przemyślu, Note From the NPM's visit to the Guarded Center and Arest for Foreigners in Przemyśl, Available in Polish <https://bit.ly/40qJUSd>.

⁶⁴⁷ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁴⁸ Supreme Audit Office, Preparation of state bodies in case of a mass influx of foreigners to Poland, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

activities organized for the foreigners.⁶⁴⁹ On the other hand, in some detention centres the open-air space is of adequate size and sufficient recreational facilities are provided (e.g., playing field for volleyball or basketball in Lesznówola).

In practice, detainees can do outdoor exercises regularly. Detainees can watch television without any limitations, including until late at night.⁶⁵⁰

Internet access was not granted in all centres (e.g., in **Wędrzyn**,⁶⁵¹ **Czerwony Bór** for two months) and the number of computers provided was not sufficient. Access to printers and scanners was also restricted in some detention centres, e.g., **Wędrzyn**, which in practice meant that the right to have contact with the outside world was not guaranteed.⁶⁵² NPM in one of its recommendations stated that number of the computers has to be increased.⁶⁵³

It is worth noting that foreigners are under constant supervision of the Border Guard officer. Furthermore, on 27 January 2017, the Border Guard Chief Commander ordered the blocking of sites with presumed terrorist-related and extremist content, social media and instant messaging platforms such as WhatsApp, and Messenger. New technologies such as VoIP (Voice over Internet Protocol) are also forbidden for security reasons even though the CPT recommended this kind of communication to be available for use by foreigners in detention centres.⁶⁵⁴ On the other hand, foreigners placed in some detention centres can use Skype after signing up for the list (in **Wędrzyn** access to Skype was not guaranteed).⁶⁵⁵ Moreover, migrants cannot use smartphones, which means that access to the Internet is possible only in dedicated rooms with computers.⁶⁵⁶

Not all foreigners have phones or SIM cards and there are no publicly available telephones. They can request to use a cell phone at the disposal of Border Guards only if they have a sim card. According to the NPM, domestic legal regulations restrict the use of cell phones for foreigners in detention facilities who do not have identity documents as the law requires that individuals possess a passport or residence card to register the SIM card. Additionally, migrants have to cover the phone costs and it was pointed out that in the case of migrants who do not have financial means in the detention centre, their right to have contact with the outside world can be restricted.⁶⁵⁷

Not all of the detainees had access to reading and leisure materials due to the admission of foreigners who spoke languages that used to be considered rare. Additionally, books in some foreign languages

⁶⁴⁹ Commissioner for Human Rights, visit in detention centre in **Wędrzyn** in January 2022, <https://bit.ly/3M7oXpx>. Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>, See also: Poland: Cruelty Not Compassion, At Europe's Other Borders, April 2022, available in English here: <https://bit.ly/3mOh2FV>

⁶⁵⁰ Information provided by the Border Guard, 2023.

⁶⁵¹ There was 1 computer for 56 foreigners in October 2021 and 1 computer for 30 foreigners in November 2021, in detention centre in the same period there was 1 computer for 6 foreigners.

⁶⁵² Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>,

⁶⁵³ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁵⁴ CPT Report 2018, 28; available at: <https://bit.ly/2HVZlTc>. See also Commissioner for Human Rights, *Wyciąg Strzeżony Ośrodek dla Cudzoziemców w Białej Podlaskiej*, 7 January 2019, available (in Polish) at: <https://bit.ly/2TBZ3OY>.

⁶⁵⁵ Information provided by the Border Guard, 2023.

⁶⁵⁶ See also: POLAND: CRUELTY NOT COMPASSION, AT EUROPE'S OTHER BORDERS, April 2022, available in English here: <https://bit.ly/3mOh2FV>

⁶⁵⁷ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

were not available in Polish bookstores.⁶⁵⁸ However, in some centres, there are libraries with books and newspapers in several languages, for example in Russian, English, and French. There are also popular games to play (e.g., chess, cards). Concerts and sports competitions are organised for adults and children in **Kętrzyn** (but only until August) and **Przemysł**. At the same time, according to the Commissioner for Human Rights, foreigners complained that additional activities are rarely organized and that they feel bored.⁶⁵⁹

According to the Supreme Audit Office detention centre in **Wędrzyn** did not have the required facilities: a library, rooms for religious practices, cultural, educational and sports activities and sports activities (only TV rooms were prepared) or recreational and sporting areas.⁶⁶⁰ Additionally, in the period from August 2021 to December 31, 2021, no recreational and sports activities were organised.⁶⁶¹

Detention centres provide rooms for religious practices, except **Wędrzyn**.⁶⁶²

In all centres, in the corridors of each floor, there are boards which provide information in at least 1 or 2 main foreign languages (Russian and/or English). They provide information on the asylum applicants' rights and/or the rules of stay in the detention centre, meal times (except **Wędrzyn**), and contact details of NGOs, UNHCR and – depending on the centre – on access to the doctor and psychologist.

In all centres, each asylum applicant and the irregular migrant has an officer appointed to their case with a scheduled meeting to discuss their case. Unfortunately, the number of officers in 2022 was not sufficient in some detention centres. In **Wędrzyn**, in 2021, officers and employees, despite 3040 overtime hours, were not able to perform all their tasks. There were delays, among others in the registration of applications for international protection, giving the agreement for visits, and conducting personal and cognitive interviews with foreigners. In addition, officers did not keep foreigners informed of their legal situation, did not meet the deadlines for submitting applications to the court to extend the period of the foreigners' stay in detention and did not conduct systematic identification of foreigners' disturbing behaviour. As a result, Border Guards in **Wędrzyn** failed to recognize, among other things, health and mental health problems, which made it impossible to perform any appropriate preventive measures.⁶⁶³

In **Wędrzyn** and **Krosno Odrzańskie**, only 43% of the estimated necessary staff was hired.⁶⁶⁴

The rules of stay in the detention centres are available in 17 languages: Arabic, English, Ukrainian, Russian, French, Armenian, Chinese, Georgian, Hindi, Spanish, Mongolian, Persian, Turkish, Farsi, Urdu, Bengali and Vietnamese.⁶⁶⁵ Depending on the centre they are available on each floor of the detention centre or in the common rooms, etc.

⁶⁵⁸ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁵⁹ Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>. See also: Poland: Cruelty Not Compassion, At Europe's Other Borders, April 2022, available in English here: <https://bit.ly/3mOh2FV>.

⁶⁶⁰ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶⁶¹ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶⁶² Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶⁶³ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶⁶⁴ Krosno Odrzańskie, 3 March 2023.

⁶⁶⁵ Information provided by the Border Guard, 7 January 2023.

The National Prevention Mechanism has reported that detained migrants have repeatedly complained about a language barrier or lack of access to legal assistance, which has resulted in a lack of understanding of applicable procedures and their legal situation. Some of the foreigners also indicated that the decisions issued by the court to extend their stay in the centre were delivered to them with a delay, which in practice made it impossible to file a complaint.⁶⁶⁶ According to NPM, systemic measures have to be taken to ensure that every foreigner deprived of liberty could have the possibility to contact a lawyer.⁶⁶⁷

Children staying in the guarded centres are – like all other children staying in the territory of Poland – subject to obligatory education until they are 18. However, this obligation, set in the Polish Constitution, is not fulfilled in the case of children staying in guarded centres.⁶⁶⁸ None of the children staying there attends school. Schools near the detention centres in **Czerwoný Bór, Białystok, Kętrzyn and Biała Podlaska** delegated teachers to work in detention facilities. Special classrooms are prepared in these centres. This is the result of agreements between the Border Guard, educational institutions and local authorities.⁶⁶⁹

2.3. Health care and special needs in detention

According to the law, all detainees have access to regular health care.⁶⁷⁰ Unfortunately, in some detention centres access to the physician (Wędrzyn: a doctor was available 6 hours a week to assist around 690 foreigners placed in that detention centre)⁶⁷¹ and psychologists (Przemyśl, Lesznów, Krosno, Białystok, Kętrzyn, Biała Podlaska, lack of access to the psychologist till October 2021 in Wędrzyn and since then the psychologist was available only 4 hours per week)⁶⁷² was very restricted in 2021 and 2022.⁶⁷³

Generally, physicians and nurses are hired to work in detention centres.

In some detention centres nurses are present daily from 7.30 a.m. till 9.30 p.m. At the same time, according to Amnesty International, foreigners with minor health conditions had difficulties with access to general physicians and nurses.⁶⁷⁴ Additionally, the Supreme Audit Office underline that since August 2021 Local branch of Border Guards has not provided adequate access to health care to foreigners

⁶⁶⁶ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus], Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁶⁷ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus], Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁶⁸ Foreigners in administrative detention. Results of the KMPT monitoring in guarded centres for foreigners in Poland, March 2021, available in Polish at: <https://bit.ly/3L0F5YZ>, Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>. SIP, We present our comments to the European Commission Against Racism and Intolerance, June 2022, available (in English) at: <https://bit.ly/3LNUl0o>.

⁶⁶⁹ Regulation on education foreigners and Polish citizens who were learning abroad, 23 August 2017, available (in Polish) at: <https://bit.ly/2XkPupP>.

⁶⁷⁰ Articles 415(1)(5) and 417 Law on Foreigners.

⁶⁷¹ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish at: <https://bit.ly/3mWDvQY>,

⁶⁷² Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish at: <https://bit.ly/3mWDvQY>,

⁶⁷³ Information provided by PFM, RPO, Pomoc psychologiczna w strzeżonych ośrodkach dla cudzoziemców – także ze strony NGO-sów, Commissioner for Human Rights, March 2023, available in Polish, <https://bit.ly/3UYK1mV>, RPO, October 2022 available in Polish: <https://bit.ly/3AIVV58>.

⁶⁷⁴ See also: Poland: Cruelty Not Compassion, At Europe's Other Borders, April 2022, available in English at: <https://bit.ly/3mOh2FV>.

staying in **Czerwony Bór**.⁶⁷⁵ According to law, a foreigner admitted to a guarded centre should be immediately subjected to a medical examination, while the analysis of the data of 35 foreigners showed that 13 of them (i.e. 37.14% of the sample) underwent a medical examination within more than 10 days from the date of admission to a detention centre (including five within 11-20 days, four within 21-30 days and the remaining four after 53, 59, 61 and 65 days respectively). Despite a similar number of foreigners staying in detention centres in **Białystok** and **Czerwony Bór**, access to basic medical care in **Czerwony Bór** was provided on a smaller scale than in **Białystok**. Medical care in **Czerwony Bór** was provided by one doctor on average 52 hours per month, while in **Białystok** physicians were available around 87 hours. At that time, 29.5% fewer medical consultations were reported than in **Białystok**. According to NPM the number of hired medical staff was not sufficient in 2021.

In the case of **Wędrzyn**, the NPM received lots of information on the misconduct of a physician hired there who provided medical assistance for migrants in 2021.⁶⁷⁶

In case of an emergency or the need for a specialist (e.g., gynaecologist), detainees are transferred to hospitals or clinics. Migrants also faced problems to have an external visit at their own expense with a physician of their choice as the director of the detention centre had to issue consent to such a consultation.⁶⁷⁷

According to SIP, migrants have restricted access to medical experts and ambulances are not let into detention centres in case of emergency at night.⁶⁷⁸

Since March 2018, Border Guard officers trained in first aid should be present during night shifts in all guarded centres.

The NPM in one of its recommendations stated that Border Guards should raise the number of medical staff hired in detention centres, and families with children and single women should have access to paediatricians, genealogists and migrants' right to choose a physician and the approval of that choice should not depend on the opinion of the medical staff employed at the centre. Moreover, they recommended that the scope of the medical examination and the medical certificate should refer to the detention and assess whether there is a reasonable presumption of subjection to violence. The so-called body maps should be used during the examinations of all foreigners and medical conduct of body marks as marks of violence, including torture should be performed.

The issue of access to psychological assistance in detention centres is a much more serious matter.⁶⁷⁹ According to the National Prevention Mechanism, in Poland, there is a systemic, long-lasting problem of identification of foreigners who have experienced torture or any other form of physical, psychological or sexual violence. The detention centre staff, including psychologists, are not properly prepared to identify victims of torture and inhumane treatment and do not know or do not use the content of the Istanbul Protocol.⁶⁸⁰ In addition, the number of psychologists hired in detention centres and the number of hours

⁶⁷⁵ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶⁷⁶ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁷⁷ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁷⁸ SIP Input by civil society organisations to the Asylum Report 2023, available (PL) at: <https://bit.ly/3puNKgA>.

⁶⁷⁹ RPO, Pomoc psychologiczna w strzeżonych ośrodkach dla cudzoziemców – także ze strony NGO-sów, Commissioner for Human Rights, March 2023, available in Polish, <https://bit.ly/3UYK1mV>, RPO, October 2022 available in Polish: <https://bit.ly/3AIWV58>.

⁶⁸⁰ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

they were to work with the migrants, was not adjusted to the significant increase of the number of foreigners placed in the centres. In practice, it meant that there was a systemic deterioration of the implementation of the right of foreigners to have access to adequate psychological care.⁶⁸¹

In September 2015, the Border Guard prepared a document entitled “Rules of BG proceedings with foreigners who need special treatment (algorithm)” because there is no definition of persons who need special treatment and there are no methods for their identification set out in law. The guidelines consist of: (i) a definition of foreigners who require special treatment, (ii) a list of persons involved in the identification, (iii) a set of solutions which simplify identification, (iv) a procedure which should be implemented before a foreigner is placed in the detention centre and (v) a procedure when a foreigner is already in detention. However, early identification of victims of torture and violence is not carried out during the preliminary examination of a foreigner on admission in practice. This document was modified in June 2019, based only on an internal consultation with the Border Guard. In the opinion of NPM, the document still needs improvements⁶⁸² as it is inconsistent with Polish law, the Istanbul Protocol and other international standards. These guidelines do not allow for the immediate release of foreigners who are alleged victims of violence from the guarded centre.

According to the HFHR, the Polish authorities (BG and courts on their own motion) do not effectively identify victims of violence. Such identification should be done at the earliest possible stage while deciding on whether the person should be placed in detention. Additionally, the BG and courts should, on their own motion, check if there are any impediments to the application of the detention measure. In practice, asylum seekers who declare in their asylum application to have been subjected to torture, are still placed in detention centres in some cases. Moreover, some courts placed victims in detention centres stating that there is no objection to such a decision since they will have access to psychological assistance in the guarded centre. The same opinion is presented in the SG guidelines, according to which, a foreigner will not be released if psychological assistance can be provided in the guarded centre.⁶⁸³

According to the representative of a National Prevention Mechanism, the guidelines for examining and documenting injuries based on the principles described in the Istanbul Protocol (especially regarding the use of so-called body maps) are not implemented by the medical staff in detention centres and arrest in Przemyśl.⁶⁸⁴ For example, in the rigorous detention centre in Przemyśl the victim of torture was placed but at the same time, the guidelines were not applied in his case.⁶⁸⁵

In 2022 in a guarded centre in **Kętrzyn**, the psychologist-Border Guard officer was available 5 days a week full-time. Additionally, from September till the mid-July 2021, a new psychologist, employed in the health department in Border Guard Unit was referred to the detention centre. Two more psychologists hired in the unit could support foreigners in the detention centre; regardless, staff remains insufficient to address the needs of the detained population, considering that, at the beginning of 2022, 392 third country nationals were present.⁶⁸⁶

⁶⁸¹ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus”, Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁸² [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus”, Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁸³ HFHR, Rights of persons deprived of liberty-fundamental legal and practical issues. HFHR perspective, July 2018, available at: <https://bit.ly/2SktNaF>.

⁶⁸⁴ RPO, Notatka służbowa z wizytacji KMPT w Strzeżonym Ośrodku i Areszcie dla Cudzoziemców w Przemyślu. Styczeń 2023, Note From the NPM's visit to the Guarded Center and Arrest for Foreigners in Przemyśl, available in Polish: <https://bit.ly/40wwyno>.

⁶⁸⁵ RPO, Notatka służbowa z wizytacji KMPT w Strzeżonym Ośrodku i Areszcie dla Cudzoziemców w Przemyślu. Styczeń 2023, Note From the NPM's visit to the Guarded Center and Arrest for Foreigners in Przemyśl, available in Polish: <https://bit.ly/40wwyno>.

⁶⁸⁶ Information provided by Border Guard in Kętrzyn, 9 March 2023.

In **Krosno** external psychologist was present only for 4 hours a week in 2022 in 2021.⁶⁸⁷ She was also responsible for the assistance to third country nationals detained in the **Wędrzyn** centre, which has an official capacity of 780 places.⁶⁸⁸ Based on the report by the Supreme Audit Office, it was found that the psychologist in **Krosno** did not receive specialized training in clinical diagnosis, specifically related to crisis reactions to traumatic events. Additionally, it was noted that making psychological diagnoses of such reactions was not among her assigned responsibilities.⁶⁸⁹ According to NPM, psychological care was not available at all in **Wędrzyn** and **Krosno**.⁶⁹⁰ None of the migrants placed in the detention centre in **Wędrzyn** were subject to the Border Guards guidelines. No forms of therapy or psycho-educational classes, no diagnosis of depression or anxiety disorders and assessment of the migrants' mental state was carried out. In practice, it meant that decisions on the prolongation of detention were made regardless of the state of mental health of migrants.⁶⁹¹

Additionally, in **Wędrzyn**, foreigners did not have direct access to the psychologist as her room was outside of the detention centre, behind the barbed fence.

In **Przemyśl**, two psychologists internal and external are available 100 hours a month. In **Biała Podlaska** detention centre there are two psychologists hired full-time: a civil worker and a border guard officer. Additionally, the external psychologist was hired for 4-8 hours a week to primarily provide psychological consultations.

In **Lesznówola**, a full-time psychologist who is also a Border Guard officer was hired, and there are two external psychologists available upon request, typically 1-2 times per week. This is despite the detention centre having a capacity of 192 places.⁶⁹²

According to the Supreme Audit Office, foreigners placed in **Czerwony Bór** and in **Białystok** did not have access to proper psychological assistance. Psychologists providing services to foreigners were not qualified to make psychological diagnoses of crisis reactions to traumatic events, and they were not trained in clinical diagnosis. In addition, the tender procedure for psychological assistance was initiated with a delay.

As a consequence, a lack of diagnoses could have a negative impact on the effectiveness of psychological assistance provided to foreigners. In addition, in 2022 there was only one psychologist available to a total of 274 foreigners staying in detention centre which deepened the risk of providing appropriate care in this regard.⁶⁹³

In practice, the limited access to independent psychological care raises great concerns.⁶⁹⁴ The Border Guards refused to allow psychologists to hold meetings with specific individuals in 2021 and 2022 in

⁶⁸⁷ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁸⁸ Border Guard Commander, Krosno Odrzańskie, information, 3 March 2023.

⁶⁸⁹ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶⁹⁰ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁹¹ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁶⁹² Information provided by Border Guard, 25 January 2022 and 7 March 2023.

⁶⁹³ Preparation of state bodies in case of a mass influx of foreigners to Poland, Supreme Audit Office, NIK, Przygotowanie organów państwa na wypadek masowego napływu cudzoziemców do Polski, available in Polish: <https://bit.ly/3mWDvQY>.

⁶⁹⁴ See also: Poland: Cruelty Not Compassion, At Europe's Other Borders, April 2022, available in English here: <https://bit.ly/3mOh2FV>.

detention centres in **Wędrzyn, Kętrzyn, Biała Podlaska** and **Lesznówola**, declaring that foreigners have access to psychological care in detention centres.⁶⁹⁵

The Commissioner for Human Rights reported many irregularities which concerned psychological assistance and underlined that the number, the frequency and the description of the consultations showed that they were only preliminary interviews and diagnoses. Long-term psychological support was not provided. Additionally, the Commissioner pointed out that the fact that only one psychologist provides psychological assistance in detention centres limits the availability of psychological support. There is a high risk that this psychologist will not be available when support during a foreigner's mental crisis is needed and there will be no one who could substitute her/him and provide psychological assistance. Moreover, foreigners should have the possibility to choose a psychologist. Otherwise, a detainee who is unable to trust an available psychologist, will not have access to effective psychological support. Moreover, the Commissioner pointed out that a person who does not feel comfortable in the presence of a particular psychologist, will not take advantage of the support. Regardless of their competence, a psychologist may not be the right person to provide support in a particular case because of his/her age, gender, appearance or even way of speaking. In a situation of a multicultural population in detention centres, the human factor plays an even more important role and the more difficult it can be to build trust. Therefore, it is very important to be able to get psychological help from more than one person. When there is no alternative, when a person is not able to trust the only psychologist providing support in a given centre, psychological care will no longer be realistically available.⁶⁹⁶

3. Access to detention facilities

Indicators: Access to Detention Facilities

1. Is access to detention centres allowed to

❖ Lawyers:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No
❖ NGOs:	<input type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input checked="" type="checkbox"/> No
❖ UNHCR:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No
❖ Family members:	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> Limited	<input type="checkbox"/> No

The law allows lawyers, NGOs and UNHCR to access detention centres.⁶⁹⁷ Detained asylum seekers are entitled to maintain contacts with UNHCR, attorneys, relatives and organisations dealing with asylum issues or granting assistance (directly and by using correspondence and telephone calls). Direct contact with UNHCR and organisations can be limited or restricted completely by the head of the detention centre if it is necessary to ensure safety and public order or to observe the rules of stay in the detention centre. The decision of the head of the centre is final.⁶⁹⁸ The Head of the Office for Foreigners and UNHCR should be informed about it.⁶⁹⁹ On the other hand, direct contact with NGOs by foreigners who are detained and have not applied for international protection, cannot be restricted according to law.⁷⁰⁰

In practice until January 2022, NGOs could not visit the detention centre in **Wędrzyn** due to national security and safety reasons. Neither the members of families who were foreigners had access to this detention centre.⁷⁰¹

Due to the coronavirus situation, all visits in detention centres were suspended from October 2020 to 21 May 2021 but foreigners could meet with lawyers and members of their family and friends remotely via

⁶⁹⁵ Information from PFM, March 2023, RPO, Pomoc psychologiczna w strzeżonych ośrodkach dla cudzoziemców – także ze strony NGO-sów, Commissioner for Human Rights, March 2023, available in Polish, <https://bit.ly/3UYK1mV>, RPO, October 2022 available in Polish: <https://bit.ly/3AWV58>.

⁶⁹⁶ Foreigners in administrative detention. Results of the KMPT monitoring in guarded centres for foreigners in Poland, March 2021, available in Polish at <https://bit.ly/3L0F5YZ>.

⁶⁹⁷ Article 415(1)(2), (3) and (19) Law on Foreigners and Article 89a(1)(2) Law on Protection.

⁶⁹⁸ According to the Law on Protection, it will be a possibility only to limit such contact.

⁶⁹⁹ Article 89a(1) and (2) Law on Protection.

⁷⁰⁰ Article 415(1a) Law on Foreigners.

⁷⁰¹ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>, 76.

Skype. The visits were suspended also in individual detention centres due to quarantine. At the end of January 2022, all personal visits were again suspended due to the coronavirus situation in Poland until 28 February 2022.⁷⁰²

NGOs provided legal assistance, but unfortunately not on a regular basis in 2021. NGOs had to narrow their assistance, including legal assistance, in the detention centres, due to a lack of financial means as a result of the delay in the implementation of AMIF; delay in the announcement of the call for proposals and delay in publishing the results co-financed by AMIF.⁷⁰³ In 2022 situation has changed. NGOs visit detention centres regularly, funded from other sources of financing. On the other hand, there is no state-founded systemic legal assistance to foreigners granted by law.⁷⁰⁴

As a general rule, NGOs have to ask for the consent of a manager of the detention centre to meet with a specific asylum seeker. Lawyers, family members and relatives or NGOs can meet with a detainee during visiting hours. In 2021, however, persons not directly related to detainees faced issues accessing them, as border guards informed that the law does not allow it.

There are no limitations concerning the frequency of such visits. UNHCR Poland notes that they are not limited to accessing detention centres. The journalists and politicians have access to detention centres under general rules, they have to ask for the consent of the SG unit managing the detention centre. On the other hand, access to detention centres in **Wędrzyn** was more restricted than to other centres.

In practice, NGOs which want to meet with more than one or with unspecified asylum seekers, monitor conditions in a detention centre etc. must ask the BG Commander in Chief in writing for permission to visit a detention centre. Since 2017, permission is authorized by the Border Guard Headquarters. Nevertheless, visits are generally not limited to visiting hours. On the other hand, in 2021, 2022 and 2023 NGOs, which provided psychological assistance started to face problems in accessing the detention centres, i.e., in **Wędrzyn**, **Lesznów**, **Biała Podlaska** or **Kętrzyn**.

Furthermore, in 2021 NGOs faced significant problems in contacting the detainees in Wędrzyn as they have no or restricted access to the Internet and phones.

Visits from relatives or religious representatives are authorised. Any visit should not last more than 90 minutes, but it can be prolonged in justified cases by the manager of the centre. Two adults have a right to take part in the meeting. The number of children is not limited.⁷⁰⁵ Non-scheduled visitors as a rule do not have the possibility to meet with the asylum applicant (but the manager of the detention centre can make exceptions from the above-mentioned rules, especially when it is needed to maintain family ties and care for children).⁷⁰⁶

Unfortunately, not all detainees were able to maintain regular contact with people outside the centre in 2021 and 2022. Although there is no limitation in using cell phones (without a video recording system), the foreigners in the detention centre in **Wędrzyn** and **Czerwony Bór** faced problems with cell phone reception or did not have access to SIM cards and phones. Only in some detention centres, i.e. in Białystok and Lesznów the BGs have several hundreds of substitute cell phones without a camera which they provide to foreigners in case they only have smartphones or SIM cards with no phone. The cell phones are handed over for the whole day for free. On the other hand, detainees themselves pay for

⁷⁰² [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus], Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁷⁰³ W Klaus, E Ostaszewska-Żuk and M Szczepanik, *The role of European Funds in supporting the integration of migrants in Poland*, September 2017, available at: <http://bit.ly/2EVdxxq>.

⁷⁰⁴ Foreigners in administrative detention. Results of the KMPT monitoring in guarded centres for foreigners in Poland, March 2021, available in Polish at <https://bit.ly/3L0F5YZ>.

⁷⁰⁵ Para 21 of the Rules of foreigners' stay in guarded centre and arrest for foreigners (Annex to the Regulation on detention centres).

⁷⁰⁶ Para 23 of the Rules of foreigners' stay in guarded centre and arrest for foreigners (Annex to the Regulation on detention centres).

the calls if they have financial means. If the asylum applicant does not have money to buy a SIM card, there is a possibility of using the BG's equipment but only in justified cases.

In 2021 and in 2022 the detainees in detention centres especially in **Wędrzyn**, **Lesznowola**, **Czerwony Bór** had no or restricted access to the internet and Skype. In **Wędrzyn** detention centre the migrants could use computers 30 minutes every 3 days. There were also brakes in Internet access. The foreigners in **Lesznowola**, **Wędrzyn** and **Kętrzyn** detention centre complained regularly that they do not have access to scanner or printer.

The Law on Foreigners foresees sanctions on a detainee who does not obey the rules in the detention centre. There are two possibilities: banning participation in sport and leisure activities (except for using the library); or banning the purchase of food and cigarettes from outside the centre.⁷⁰⁷

When deciding upon the application of either of these two sanctions, the BG Regional Commander takes into account the general behaviour of the detainee, the level of disobedience, cultural background, etc. In 2021, this sanction was used 6 times in **Przemyśl** for 7 days.⁷⁰⁸

In the detention centres of Białystok and Czerwony Bór, there were a total of 72 incidents reported, with 19 occurring in 2019, 21 in 2020, and 32 in 2021 (28 in the Białystok centre and 4 in the Czerwony Bór branch). These incidents primarily involved meal refusals/hunger protests and fights/beatings, which accounted for 41.7% and 34.7% of all incidents, respectively.

The Border Guard officers buy products (food and basic necessities) requested by detainees usually twice a week if the migrants have money in a deposit.⁷⁰⁹ According to the NGOs, the current amount available for spending is insufficient. On the other hand, the detainees cannot receive any food or liquid things in packages from other people.

D. Procedural safeguards

1. Judicial review of the detention order

Indicators: Judicial Review of Detention

- | | | |
|---|---|-----------------------------|
| 1. Is there an automatic review of the lawfulness of detention? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. If yes, at what interval is the detention order reviewed? | No data | |

Detention is ordered by the District Court upon request of the BG. Prolongation of detention is also ordered by the District Court upon request of the BG. Asylum seekers' stay in the detention centre can be prolonged if before the end of the previous period of detention, the final decision concerning the application for international protection is not issued and the reasons to detain the applicant still exist.⁷¹⁰

Asylum seekers should be informed of the reasons for their detention, legal remedies and their rights. Information on the reasons for detention is given first in the court, orally, and translated into a language understandable for the asylum applicant. The court has a clear obligation to hear the person concerned before rendering a decision.⁷¹¹ However, during the migration situation at the Polish -Belarusian border in 2021, the foreigners were not transported to the courts, but they took part in court proceedings online. The foreigners claimed that they did not understand the court procedure and the interpreter who translated the judge.

⁷⁰⁷ Article 421(2) Law on Foreigners.

⁷⁰⁸ Information provided by the Border Guard in Przemyśl, 2022.

⁷⁰⁹ Information provided by HFHR March 2023.

⁷¹⁰ Article 89(4) Law on Protection.

⁷¹¹ Article 88b(1) Law on Protection.

In all guarded centres, when the person arrives at the centre, there should be a meeting during which a detainee receives information about the centre. Although, in practice, asylum seekers do not understand the reasons for their detention and their legal situation and do not have basic information on their rights and their legal situation, for example concerning the length of their detention⁷¹² which has a very negative impact on the mental state of the foreigners.⁷¹³

The law provides for judicial review of the lawfulness of detention.⁷¹⁴ Asylum seekers can appeal against a District Court ruling to the Regional Court within 7 calendar days from the day the ruling is pronounced. In prolongation cases, it is 7 days from the notification of the ruling to an asylum seeker.⁷¹⁵ In this appeal, the detainee can dispute the grounds for their detention. The Law on Foreigners envisages 7 days for the examination of the appeal.⁷¹⁶

Asylum seekers receive rulings in the language they should understand; a literal translation of a ruling rendered in Polish. Unfortunately, the information about the deadline for appeal is not translated at all. In practice it means that the foreigners are not aware that they are obliged to submit it in 7-day period.

Due to restricted access to the Internet, phones, printers and scanners, very often the foreigner could not fill in time the appeal. Additionally, in Wędrzyn, the appeals issued by foreigners to the administration of detention centres in time were registered by Border Guards with a delay, which meant that their complaints would not be examined by the court.

The court procedure concerning detention orders is not considered effective. Courts often decide on the detention of asylum seekers without an in-depth analysis of their personal situation, and reasons for detention mentioned in the judgment are indicated very generally - without direct reference to a personal situation. Courts do not conduct evidentiary proceedings on the best interests of the child and torture victims.⁷¹⁷

In the appeal procedure, detained migrants cannot be present in the court and present their standpoint. In 2021, none of the Regional Courts decided to bring a foreigner for the second instance court hearing.⁷¹⁸ At the same time, foreigners are not informed about the reasons for prolonging their stay in a detention centre by the Border Guard, for example in Kętrzyn and Białystok.⁷¹⁹ The application is not handed over to them, so they cannot present their reasons before the Regional Court will decide on their case. Additionally, foreigners are not informed about the date of the court's meeting, so they are not able to ask the court to establish a legal representative in their case. Furthermore, the appeal has to be prepared in Polish, so foreigners are dependent on NGOs.

According to SIP, roughly all of the Border Guard's applications for placing or extending the detention were accepted by the courts in 2020. In only 7 cases out of 132, the courts of second instance overruled or changed the decisions which is about 5.5% of cases.⁷²⁰ In 2021, 98.83 % of the Border Guard

⁷¹² CPT Report 2018, available at: <https://bit.ly/2HVZlIc>, 20. See also: Report NPM, "Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", June 2022, available in Polish at: <https://bit.ly/3URYZek>.

⁷¹³ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish at: <https://bit.ly/3URYZek>.

⁷¹⁴ Article 88b(3) Law on Protection; Article 403(8) Law on Foreigners.

⁷¹⁵ Courts interpret differently the law in this matter – some claim that 7 days should be counted from the day of the pronouncement of the court ruling about placing the foreigner in the detention centre, some that it should be counted from the day the translated ruling is delivered to a foreigner in writing – T. Sieniow, *op. cit.*, 54.

⁷¹⁶ Article 88b(3) Law on Protection; Article 403(8) Law on Foreigners.

⁷¹⁷ Only in one case in Regional Court in Olsztyn appointed a psychologist in a detention case, Information provided by the Regional Court in Olsztyn January 2022.

⁷¹⁸ Information provided by Regional Court in Białystok for SIP, 21 January 2022, Regional Court in Olsztyn, 21 January 2022, Regional Court in Lublin 17 January 2022, in Radom 19 January 2022, in Zielona Góra Warszawa Praga Południe 21 January 2022, Warszawa 21 January 2022,

⁷¹⁹ Information provided by the Association for Legal Intervention, February 2021.

⁷²⁰ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at: <https://bit.ly/3pmM6dS>.

applications to prolong a stay of a foreigner were accepted by the District Court and in 13% of cases the Regional Courts recognised the complaints.⁷²¹

According to SIP, in 2020 foreigners received court decisions on extension of their stay in a detention centre only after the time for which they were placed in centre had expired or just before it expired.⁷²² In 2021, the translated court decision was only provided on the final day of the detainee's stay in the detention center, which lowered the chances of filing an effective appeal. In such circumstances, the regional court does not have sufficient time to review the appeal before the end of the detainee's detention period.⁷²³

Previously the Border Guard had been requested by the District Court of **Biała Podlaska** to submit motions for prolongation of detention in due time. In 2021 and 2022, the Border Guard complied with this requirement and motions were submitted at least seven days to two weeks before the end day of detention.⁷²⁴

Every person is entitled to compensation and redress for wrongful detention from the State Treasury.⁷²⁵ In 2020, SIP represented two families and a man whose cases are pending before the Regional Court of Warsaw and Olsztyn.⁷²⁶ In one of these cases, Court granted compensation to a victim of violence in the amount of 90,000 PLN (around 19,600 Euros). The HFHR had two such cases in the Regional Court of Warsaw (pending as of February 2021) and in Radom. In the latter case, the foreigner, citizen of **Congo** was detained even though Border Guards identified him as a victim of violence from the very beginning. He was released from the detention centre on the base of the court decision 3 months later. The court granted a compensation of 39,000 PLN (8,500 Euros) based on the documents presented with the compensation motion.⁷²⁷ The judgment was upheld in February 2021.

2. Legal assistance for review of detention

Indicators: Legal Assistance for Review of Detention

1. Does the law provide for access to free legal assistance for the review of detention?
☒ Yes ☐ No
2. Do asylum seekers have effective access to free legal assistance in practice?
☐ Yes ☒ No

The law provides access to free legal assistance for the review of detention before the courts, but it is hardly ever exercised in practice.⁷²⁸ Asylum seekers can ask the court to grant them free legal assistance, if they duly prove that they are not able to bear the costs of legal assistance, without harm to the necessary maintenance of themselves and their families.⁷²⁹ The court has a clear obligation to inform asylum seekers in a language understandable to them about the right to ask for legal assistance.⁷³⁰ However, this rarely happens in practice, as most asylum seekers are not aware of this possibility and are not represented by a legal advisor in the District or Regional Court.

In addition, their right to defence is not observed when the court decides on the extension of their detention. Foreigners are either not informed about the day of the court proceedings or they are informed (in Polish) on the short notice - on the same day. As a result, they are unable to submit a request for the

⁷²¹ SIP w działaniu, Annual Report 2021, June 2022, available in Polish: <https://bit.ly/3oAq2ia>.

⁷²² Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at <https://bit.ly/3pmM6dS>.

⁷²³ SIP w działaniu, Annual Report 2021, June 2022, available in Polish: <https://bit.ly/3oAq2ia>.

⁷²⁴ Information provided by different branches of Border Guard, letter, January -March 2023.

⁷²⁵ Article 407 Law on Foreigners.

⁷²⁶ Information provided by the Association for Legal Intervention, February 2021.

⁷²⁷ Regional Court in Radom, II Ko 23/16.

⁷²⁸ Articles 78 and 87a Law of 6 June 1997 on the Code of Criminal Procedure, available at: <http://bit.ly/1UcUEO3>.

⁷²⁹ Article 78 and 87a Code of Criminal Procedure.

⁷³⁰ Article 88b(4) Law on Protection.

lawyer on time.⁷³¹ Moreover, they generally do not receive a copy of the application on prolonging their stay in detention.

In the regional courts in Lublin, Zielona Góra, Białystok and Przemyśl no attorney was appointed for migration-related cases in 2020, and positive outcomes of complaints ranged from 0 to approx. 3.5%⁷³² and 13% in 2021 (there are no data from Regional Court in Białystok). In 98.83% of cases the District Court approved the Border Guards' application for a prolongation of detention.⁷³³

As a result, they are dependent on legal assistance granted by NGO lawyers, most of whom are not entitled to represent them in the courts.

The law foresees a state legal aid system only to prepare the appeal to a negative asylum decision. In practice, only some foreigners decide to look for a legal representative, i.e., an advocate or a legal advisor.

Additionally, the right to have access to a translator was also not observed in 2021. According to the NMP, translators did not translate the foreigners' documents in detail. The explanation provided to foreigners was limited to the importance of signing documents, with no information provided on the content of statements or other documents. This practice was also observed during court hearings regarding the placement of foreigners in detention centres.⁷³⁴

E. Differential treatment of specific nationalities in detention

There is no differential treatment of specific nationalities in detention in Poland. Although in 2021 and 2022 the citizens of Afghanistan, Yemen, Iran, Somalia and Syria were often released from detention centres, based on a decision of the Head of the Office for Foreigners within 2-4-month time limit.⁷³⁵ In the second half of 2021 (from July to December), 324 asylum seekers were released from the detention centre. In the first half of 2022, 116 people were released.⁷³⁶

⁷³¹ SIP, Annual Report 2019, April 2020, available in Polish at: <https://bit.ly/3sloolp>.

⁷³² Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2020 r. [Report SIP in action. Rights of foreigners in Poland in 2020], available (PL) at <https://bit.ly/3pmM6dS>. SIP w działaniu, Annual Report 2021, June 2022, available in Polish: <https://bit.ly/3oAq2ia>.

⁷³³ SIP w działaniu, Annual Report 2021, June 2022, available in Polish: <https://bit.ly/3oAq2ia>.

⁷³⁴ [Sytuacja cudzoziemców w ośrodkach strzeżonych w dobie kryzysu na granicy Polski i Białorusi Raport z wizytacji Krajowego Mechanizmu Prewencji Tortur, [Situation of foreigners in the guarded centres in times of crisis on the border of Poland and Belarus", Report NPM, June 2022, available in Polish here: <https://bit.ly/3URYZek>.

⁷³⁵ Information provided by HFHR, March 2023.

⁷³⁶ In 2021- 311 Afghanis, 3 Ethiopia, 2 Somalia, 6 Tadzhikistan, 1 Turkey, Russia. 2022: 32 from Afghanistan, 2 Angola and Iraq, 16-Iran, 27 Yemeni, 2 Palestinians, 19 Somali, 13 Syria, 1- from Belarus, Ethiopian, Kongo, Letter of the Head of the Office for Foreigners, August 2022, available in Polish: <https://bit.ly/3oBXcOr>.

A. Status and residence

1. Residence permit

Indicators: Residence Permit

1. What is the duration of residence permits granted to beneficiaries of protection?

❖ Refugee status	3 years
❖ Subsidiary protection	2 years
❖ Humanitarian protection	2 years

Refugee status is granted for an unlimited period of time. Recognised refugees obtain a 3-year residence permit (*karta pobytu*).⁷³⁷ The first permit is issued *ex officio*⁷³⁸ and is renewed after this period for another 3 years upon request.⁷³⁹

Subsidiary protection is also granted for an unlimited time. Subsidiary protection beneficiaries obtain a 2-year residence permit (*karta pobytu*).⁷⁴⁰ The first permit is also issued *ex officio*,⁷⁴¹ and is renewed after this period for another 2 years upon request.⁷⁴²

Humanitarian protection (*zgoda na pobyt ze względów humanitarnych*) is granted for an unlimited period of time. The beneficiary of humanitarian protection obtains a 2-year residence permit (*karta pobytu*).⁷⁴³ The permit will be renewed after this period for another 2 years.⁷⁴⁴ The first and subsequent cards are issued at the foreigner's request.⁷⁴⁵

As of 1 January 2023, there were 2,228 persons holding a valid residence permit for refugees, 5,910 persons holding a valid residence permit granted to subsidiary protection beneficiaries and 1,818 persons under the humanitarian protection scheme.⁷⁴⁶

An application for the renewal of the residence permit should be submitted 30 days before the expiration date of the current residence card.⁷⁴⁷ Foreigners are often not aware of this rule.

The issuance of the residence permit is paid and costs 100 PLN / 21.22 € (the amount has been raised from PLN 50 since 29 July 2022).⁷⁴⁸ Only the first residence permit is issued free of charge.⁷⁴⁹ The fee can be diminished by 50% if a beneficiary is in a difficult material situation (only if he or she obtains social assistance benefits) or is a minor up to 16 years old.⁷⁵⁰ There is no possibility of full exoneration from the payment. The obligation to pay even only 50 PLN / €10.61 sometimes prevents foreigners from obtaining a new residence permit. Moreover, in case of culpable loss or damage of the card, a new one will be issued subject to a higher fee of no more than 300 PLN / €63.66.⁷⁵¹

⁷³⁷ Article 89i(1) Law on Protection.

⁷³⁸ Article 229(2) Law on Foreigners.

⁷³⁹ Article 89i(2a) Law on Protection.

⁷⁴⁰ Article 89i(2) Law on Protection.

⁷⁴¹ Article 229(2) Law on Foreigners.

⁷⁴² Article 89i(2a) Law on Protection.

⁷⁴³ Article 243(1)(4) Law on Foreigners.

⁷⁴⁴ Article 243(2)(3) Law on Foreigners.

⁷⁴⁵ Article 229(1) and Article 229(4)(3) Law on Foreigners.

⁷⁴⁶ Information provided by the Office for Foreigners, 3 February 2023.

⁷⁴⁷ Article 230(2) Law on Foreigners.

⁷⁴⁸ Article 235(1) Law on Foreigners. Office for Foreigners, 'Nowe stawki opłat za dokumenty wydawane cudzoziemcom', 29 July 2022, available in Polish here: <https://bit.ly/3Bcdocs>.

⁷⁴⁹ Article 236(1)(a)-(c) Law on Foreigners.

⁷⁵⁰ Article 237(1) and (2) Law on Foreigners.

⁷⁵¹ Article 238 Law on Foreigners.

The Office for Foreigners, responsible for the issuance and renewal of residence permits for refugees and subsidiary protection beneficiaries,⁷⁵² is situated in **Warsaw**. In the case of humanitarian protection beneficiaries, an authority responsible for a residence permit renewal is a Border Guard unit having jurisdiction over the foreigner's current place of stay.⁷⁵³

The residence permit must be received in person. A permit for a child under the age of 13 should be received in person by his or her legal representative.⁷⁵⁴ There is no possibility to receive this permit by another representative or by post. Moreover, foreigners are obliged to give their fingerprints any time they renew a residence permit.⁷⁵⁵ If they refuse to give their fingerprints, the residence permit will not be issued.⁷⁵⁶ The obligation to give fingerprints and mandatory personal presence to pick up the permit means that every time the foreigner has to obtain a new permit, he or she has to travel to **Warsaw** in case of refugees and subsidiary protection beneficiaries, or another town in case of humanitarian protection beneficiaries, twice, even if he or she lives far away. This can be time-consuming and costly. According to the Office for Foreigners, the obligation to collect fingerprints from an applicant is very occasionally lifted (3 times in 2022: two cases of illness and one – the lack of hand).⁷⁵⁷ The lack of a legal possibility to exempt the foreigner fully from the abovementioned payment, the obligation of personal presence twice – upon application and collecting the document, and the possibility to be issued a residence permit only in one place may postpone the receipt of new residence cards by foreigners.

Failure to renew a residence permit can be punished by a fine,⁷⁵⁸ but this does not happen in practice. There have been no such cases in 2015-2022.⁷⁵⁹

Moreover, Polish law requires presenting – as a condition to issue or renew the residence permit – recent photographs. Photos presenting face with covered hair are not allowed (hair has to be visible on the picture), which is often problematic for Muslim women.⁷⁶⁰

By law, all residence permits should have the annotation “access to the labour market”, if the foreigner is entitled to work in Poland.⁷⁶¹ In practice, permits issued for refugees as well as humanitarian and subsidiary protection beneficiaries do not have such an annotation, which can impede their access to the labour market and to some social benefits, such as the ones in the framework of the “Family 500+” programme.⁷⁶² However, the Supreme Administrative Court as well as the Voivodeship Administrative Court in Warsaw held that such lack of annotation cannot be interpreted as excluding the foreigner from receiving social assistance if he is entitled to work in Poland.⁷⁶³ Consequently, the Polish authorities changed their practice and no longer refuse the special financial support under the 500+ Programme on that basis.

⁷⁵² Article 89n(2) Law on Protection.

⁷⁵³ Article 245(4)-(5) Law on Foreigners.

⁷⁵⁴ Article 248(1)-(2) Law on Foreigners.

⁷⁵⁵ Article 246(2) Law on Foreigners.

⁷⁵⁶ Article 247 Law on Foreigners.

⁷⁵⁷ Information provided by the Office for Foreigners, 3 February 2023.

⁷⁵⁸ Article 465(4) Law on Foreigners.

⁷⁵⁹ Information provided by the Office for Foreigners, i.e. 3 February 2023.

⁷⁶⁰ Ordinance of the Minister of Interior of 29 April 2014 on the documents issued for foreigners, available (in Polish) at: *Obwieszczenie Ministra Spraw Wewnętrznych i Administracji z dnia 4 lutego 2022 r. w sprawie ogłoszenia jednolitego tekstu rozporządzenia Ministra Spraw Wewnętrznych w sprawie dokumentów wydawanych cudzoziemcom*, available at: <https://bit.ly/3UdM8TL>.

⁷⁶¹ Article 244(1)(11) Law on Foreigners.

⁷⁶² European Website on Integration, ‘Poland: social benefit ‘500 PLN per child’ not for refugees?’ 29 February 2016, available at: <http://bit.ly/2ILCBFK>. M. Sadowska, “Świadczenia ‘Dobry start’” in *Stowarzyszenie Interwencji Prawnej (SIP), SIP w działaniu. Prawa cudzoziemców w Polsce w 2018 r.*, 2019, available (in Polish) at: <https://bit.ly/31HyL2O>, 52.

⁷⁶³ See judgments of Voivodeship Administrative Court in Warsaw No I SAWa 1997/16, 7 October 2016, available (in Polish) at: <http://bit.ly/2l8Mj26> and of the Supreme Administrative Court no. I OSK 1164/16, 14 March 2018.

2. Civil registration

Every child born in Poland, regardless of the nationality of their parents, must be registered in the Civil Registry Office (*Urząd Stanu Cywilnego*). The birth of a child must be reported to the Civil Registry Office territorially competent for the place of birth of the child.⁷⁶⁴ The documents necessary for the preparation of a birth certificate include:

- Written statement of birth issued by a doctor, midwife or health care facility;
- Copy of the marriage certificate if the child's parents are married;
- Birth certificate of the mother, marriage certificate with an entry noting divorce, and an abridged copy of the death certificate of the spouse; if the child's mother is single, divorced or widowed, respectively.

The Civil Registry Office which prepared a birth certificate applies for a PESEL (Universal Electronic System for Registration of the Population) number for a child, which is then entered into the registry as well. The PESEL number is crucial in many areas of life including in the provision of health care, hence its registration is initiated by reporting a child's birth.

Marriage is concluded in the Civil Registry Office of the choice of the persons concerned. The documents required to enter into a marriage in Poland are:

- Valid identity document;
- Birth certificate and a marriage certificate together with the annotation of divorce, if the person concerned was married before;
- Certificate issued by the country of origin that the person concerned has the capacity to enter into a marriage under the law of their country.

If the latter document cannot be obtained, the person concerned can apply to the court to be exempt from this obligation.

Generally, foreign documents have to be legalised or authenticated by an apostille. As a general rule, all documents presented in the Civil Registry Office should be translated by a sworn interpreter and a foreigner who does not speak Polish needs to complete all the formalities (including the marriage ceremony itself) accompanied by a sworn interpreter of a language they speak fluently. Certificates are drawn up immediately.

Problems occur when documents from the country of origin have to be submitted. However, the court procedure to exempt beneficiaries of international protection from this obligation is applied rather efficiently, as the experience of HFHR showed in the recent years.

3. Long-term residence

Indicators: Long-Term Residence

1. Number of long-term residence permits issued to beneficiaries in 2022: Not available

The EU long-term residence permit (*zezwolenie na pobyt rezydenta długoterminowego UE*) is issued on a foreigner's demand if he or she:⁷⁶⁵

1. Resides in Poland legally and continuously for at least five years immediately prior to the submission of the application for the EU long-term residence permit,
2. Has stable and regular resources which are sufficient to maintain him or herself and the dependent family members;
3. Has appropriate medical insurance;

⁷⁶⁴ Law of 28 November 2014 on civil registration certificates.

⁷⁶⁵ Article 211(1) Law on Foreigners.

4. Knows the Polish language at least on level B1 (the documents confirming having this knowledge are required).⁷⁶⁶

Resources are considered sufficient, if for 3 years immediately before the submission of the application a foreigner had an income higher than the income threshold for obtaining social assistance in Poland.⁷⁶⁷ For the language requirement, see the problems mentioned in [Naturalisation](#).

The entire period of a refugee's stay in Poland during the asylum procedure is taken into account in the calculation of the 5-year period if the asylum procedure lasted more than 18 months. In other cases, half of this period is considered.⁷⁶⁸ If the previous asylum procedure ended with a refusal of international protection, the period of this procedure is not taken into account at all.⁷⁶⁹ A procedure for an EU long-term residence permit cannot be initiated if a foreigner is a humanitarian protection beneficiary or is seeking asylum.⁷⁷⁰

Refugees and beneficiaries of subsidiary protection may also apply for a permanent residence permit (*zezwoleńie na pobyt stały*) if they continuously stay in Poland for at least 5 years immediately before the submission of the application. The asylum procedure is taken into account in this calculation.⁷⁷¹ The same rules apply to beneficiaries of humanitarian protection but the asylum procedure is not counted to the 5 years period.

The fee for an EU long-term residence permit and a permanent residence permit is 640 PLN / 136 €.

The authority responsible for the issuance of the EU long-term residence permit and a permanent residence permit is Voivode having jurisdiction over the current place of stay of the applicant.⁷⁷² The Office for Foreigners is a second instance administrative body competent to handle appeals against first instance decisions. Since 29 January 2022, the procedure should last 6 months (instead of 3) at the first instance and additionally, a maximum of 3 months (instead of 2) if an appeal was lodged.⁷⁷³ In 2022, the proceedings regarding the EU long-term residence permit lasted, on average, 205 days, and the proceedings concerning the permanent residence permit 176 days.⁷⁷⁴ Importantly, in reaction to the war in Ukraine and the large numbers of people seeking temporary protection in Poland, all the time limits in the cases already considered by Voivodes and the Office for Foreigners were suspended until the end of the year. In new cases, the time limits did not start to run.⁷⁷⁵ In January 2023, this suspension was prolonged until 24 August 2023.⁷⁷⁶

Since 2017, no data was made available on the number of beneficiaries of international protection granted EU long-term resident status and permanent residence permits.

4. Naturalisation

Indicators: Naturalisation

- | | |
|---|---------------|
| 1. What is the waiting period for obtaining citizenship? | |
| ❖ Refugee status | 7 years |
| ❖ Subsidiary protection | 7-10 years |
| 2. Number of citizenship grants to beneficiaries in 2022: | Not available |

⁷⁶⁶ Article 211(1)(3) and (3) Law on Foreigners.

⁷⁶⁷ Article 211(2) Law on Foreigners.

⁷⁶⁸ Article 212(1) (2) and (3c) Law on Foreigners.

⁷⁶⁹ Article 212(2)(8) Law on Foreigners.

⁷⁷⁰ Article 213(1)(e)-(f) Law on Foreigners.

⁷⁷¹ Article 195(1)(6) and Article 195(3) Law on Foreigners.

⁷⁷² Articles 201 and 218(1) Law on Foreigners.

⁷⁷³ Articles 210 and 223 Law on Foreigners.

⁷⁷⁴ Information provided by the Office for Foreigners, 3 February 2023.

⁷⁷⁵ Article 100c of the Law on assistance to Ukrainian nationals.

⁷⁷⁶ Article 100d of the Law on assistance to Ukrainian nationals, added by the amendment of 13 January 2023.

Polish citizenship can be obtained through two procedures. Firstly, citizenship can be granted by the Polish President.⁷⁷⁷ Any foreigner can apply to President to be granted Polish citizenship; there are no specific conditions and criteria for obtaining citizenship in this procedure. A foreigner only has to submit a form with information about him or herself and a justification, of why he/she applies for Polish citizenship, to a Consul or a Voivode, who hands on the application to the President.⁷⁷⁸ Knowledge of the Polish language is not required. The citizenship is granted free of charge. The President's refusal is a final decision and cannot be appealed.

Secondly, a foreigner can be declared as a Polish citizen if they fulfil the criteria specified in law.⁷⁷⁹ Both refugees and subsidiary protection beneficiaries have to obtain first a permanent residence permit (*zezwoleńie na pobyt stały*) or EU long-term residence permit in Poland.

A refugee who has been granted a permanent residence permit and stays continuously on this basis in Poland for 2 more years can be declared as a Polish citizen.⁷⁸⁰ There is no similar rule concerning subsidiary protection beneficiaries. To be declared as Polish citizens, they have to fulfil the same criteria as any other foreigner who obtained a permanent residence permit or EU long-term residence permit in Poland (i.e. 2-3 years stay in Poland on this basis or 10 years of legal stay in Poland independently of the basis of the stay, stable and regular resources, legal entitlement to stay in a residential property or marriage with a Polish citizen).⁷⁸¹

Both, refugees and subsidiary protection beneficiaries, to be declared as a Polish citizen, have to prove that they know the Polish language.⁷⁸² Foreigners should present a document confirming that they have graduated from a Polish school or that they have passed the State exam for the Polish language as a foreign language (B1 at least). Those examinations are rarely organised (in 2016-2019, only twice-three times per year, and 4 times per year in 2021 and 2022) and they are costly.⁷⁸³ To take an exam, foreigners often have to travel to another city, bearing the costs not only of the exam itself but also of transportation and hotel,⁷⁸⁴ which may constitute an obstacle to naturalisation. In the years 2019-2022, the organisation of these State exams was controlled by the Supreme Audit Office. It concluded that the responsible authorities did not collect the necessary data to assess how efficient the current system to determine sufficient knowledge of the Polish language is. It noticed that the available places for exams run out after 10-15 minutes from the beginning of the registration, so the system seems to be inadequate to meet existing needs. Furthermore, trainings for examiners were incorrectly organized. In the years 2019-2021, 19,477 certificates were issued upon passing the exam. Moreover, 738 certificates were issued without a person taking the exam.⁷⁸⁵

Additional barriers to obtaining Polish citizenship through a declaration include difficulties in obtaining written proof of entitlement to reside in a particular property (as property owners may prefer verbal agreements rather than signing a rental agreement), as well as obtaining civil registration documents from the individual's country of origin.⁷⁸⁶

The beneficiary of international protection submits the application for a declaration as a Polish citizen to Voivode who has jurisdiction over their current place of stay.⁷⁸⁷ The fee for obtaining citizenship is 219

⁷⁷⁷ Article 18 Law of 2 April 2009 on Polish citizenship.

⁷⁷⁸ Article 19-21 Law on Polish citizenship.

⁷⁷⁹ Article 30 Law on Polish citizenship.

⁷⁸⁰ Article 30(1)(3) Law on Polish citizenship.

⁷⁸¹ Article 30(1)(1), (2) and (6) Law on Polish citizenship.

⁷⁸² Article 30(2) Law on Polish citizenship.

⁷⁸³ Information from the official exams' website, available (in Polish) at: <https://bit.ly/2uBSEmw>.

⁷⁸⁴ P. Kaźmierkiewicz, 'Obywatelstwo' in A. Górka, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce* (Instytut Spraw Publicznych 2019), 25.

⁷⁸⁵ Supreme Audit Office, 'Wystąpienie pokontrolne. Egzaminy poświadczające znajomość języka polskiego - I-21-003-KNO', no. KNO.411.003.01.2021, 21 January 2022, available in Polish at: <http://bit.ly/3KpySbm>.

⁷⁸⁶ P. Kaźmierkiewicz, 'Obywatelstwo' in A. Górka, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce* (Instytut Spraw Publicznych 2019), 23-24.

⁷⁸⁷ Article 36(1) Law on Polish Citizenship.

PLN/47 EUR. The Voivode decision can be appealed to the Minister of Interior.⁷⁸⁸ The procedure should last one month or two if it is a complicated case.

5. Cessation and review of protection status

Indicators: Cessation

1. Is a personal interview of the beneficiary in most cases conducted in practice in the cessation procedure? ☒ Yes ☐ No
2. Does the law provide for an appeal against the first instance decision in the cessation procedure? ☒ Yes ☐ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☒ Yes ☐ With difficulty ☐ No

Poland has a single procedure ("deprivation") for the cessation and/or withdrawal of international protection.

Refugee status is ceased if a foreigner:⁷⁸⁹

- a. Has voluntarily settled in the country, which he or she had left for fear of persecution;
- b. Has voluntarily accepted protection of a country he or she is a citizen of;
- c. Has voluntarily accepted the citizenship of the country of origin, which he or she had lost before;
- d. Has acquired new citizenship and he or she is under the protection of the state whose citizen he or she has become;
- e. Can no longer refuse to accept the protection of the country of origin, because the reasons why he or she was granted a refugee status no longer exist, and he or she did not present convincing arguments as to why he or she cannot accept this protection. The same applies to countries of habitual residence for stateless persons.

Subsidiary protection is ceased, if the circumstances which were the reason for granting subsidiary protection no longer exist or have changed in such a way that a foreigner no longer requires protection.⁷⁹⁰

The deprivation procedure is initiated by the Head of the Office for Foreigners *ex officio* or on other authorities' demand.⁷⁹¹ Asylum seekers should be informed about the initiation of the respective proceedings as soon as they started. The procedure should last no longer than 6 months.⁷⁹² During the procedure, a refugee or a subsidiary protection beneficiary should be interviewed, particularly to present reasons as to why they should not be deprived of the protection. A foreigner can also present arguments in writing.⁷⁹³

A decision on deprivation of international protection is issued by the Head of the Office for Foreigners and can be appealed to the Refugee Board with suspensive effect. A foreigner should leave Poland within 30 days from the day of the delivery of the Refugee Board's decision on deprivation of international protection. In the same period, he or she can make the complaint to the Voivodeship Administrative Court in Warsaw. This onward appeal does not entail an automatic suspensive effect but a foreigner can request the court to suspend the final decision on deprivation of international protection. However, it takes sometimes even a couple of months to suspend the decision by the court on the foreigner's demand. During that period a foreigner stays irregularly in Poland, so return proceedings may be initiated against him/her and removal may be enforced.

⁷⁸⁸ Article 10(4) Law on Polish Citizenship.

⁷⁸⁹ Article 21(1) Law on Protection.

⁷⁹⁰ Article 22(1) Law on Protection.

⁷⁹¹ Article 54b Law on Protection.

⁷⁹² Article 54a Law on Protection.

⁷⁹³ Article 54d(1) Law on Protection.

Only some refugees and subsidiary protection beneficiaries are entitled to free legal assistance in cessation proceedings, namely those whose income is so low that it would qualify them for social welfare.⁷⁹⁴ Free legal assistance is only provided in the appeal proceedings; it does not include the first-instance procedure.⁷⁹⁵ Before the court, the foreigner can apply for free legal assistance by lawyer following the general rules (see [Legal Assistance](#)).

A foreigner who was deprived of international protection is obliged to return the residence card immediately to the Head of the Office for Foreigners, no later than 14 days from the moment when a decision concerning deprivation of international protection becomes final.⁷⁹⁶

There is a single procedure in Poland that includes the cessation and withdrawal of international protection. In consequence, the beneficiary may receive a decision on deprivation of international protection, as it is called in Poland, which can be issued on the grounds justifying only a cessation or only a withdrawal or both. The Office for Foreigners shares the data on a general number of 'deprivations' and how often the exact legal basis was used in the respective decisions. From 2017 to 2022, the total number of persons deprived of international protection as a result of a cessation or withdrawal procedure was as follows:

Number of persons deprived of international protection (ceased and/or withdrawn)						
	2017	2018	2019	2020	2021	2022
Deprivation of refugee status	0	11	6	12	4	9
Deprivation of subsidiary protection	80	157	100	95	32	33

Source: Office for Foreigners.

The above figures do not distinguish between cessation and withdrawal procedures as both fall under the category "deprivation of international protection" in the statistics shared by the OFF. Nevertheless, based on an analysis of the grounds used to deprive international protection, cessation and withdrawal procedures seem to have been applied in recent years as follows: in 2018, 11 foreigners (incl. 9 citizens of Russia) had their refugee status ceased (10 refugees) or withdrawn (1 person) and 157 (incl. 154 citizens of Russia) had their subsidiary protection ceased (153 beneficiaries) and/or withdrawn (13). In 2019, 6 decisions on cessation of refugee status were issued (incl. 5 citizens of Russia) and 100 (all concerning citizens of Russia) – on deprivation of subsidiary protection (97 ceased and 11 withdrawn). In 2020, 95 Russian citizens had their subsidiary protection ceased (94) and/or withdrawn (4). In 12 cases the refugee status was ceased (11 Russian citizens, 1 Sri Lankan national). In 2021, 32 Russian citizens had their subsidiary protection status ceased (28) and/or withdrawn (4). In 4 cases, the refugee status was ceased (all Russian citizens).⁷⁹⁷ In 2022, 9 persons had their refugee status ceased or withdrawn (including 6 Russian citizens, 2 Turkish citizens and 1 Afghan citizen). 33 beneficiaries had their subsidiary protection status ceased or withdrawn (including 31 Russian citizens and 2 Afghan citizens).⁷⁹⁸ Statistical data for 2022 provided by the Office for Foreigners did not allow to differentiate between cases in which the protection status had been ceased, or withdrawn.

As regards the grounds for depriving international protection, the following cessation grounds were applied in 2022:

⁷⁹⁴ Article 69d(2) Law on Protection.

⁷⁹⁵ Article 69d Law on Protection.

⁷⁹⁶ Article 89l(1) and (3) Law on Protection.

⁷⁹⁷ Information provided by the Office for Foreigners since 2019.

⁷⁹⁸ Information provided by the Office for Foreigners, 3 February 2023.

Grounds for cessation of international protection in 2022 ⁷⁹⁹	
Cessation of refugee status	
The beneficiary voluntarily settled in the country, which he or she had left for fear of persecution.	5
The beneficiary voluntarily accepted the protection of a country he or she is a citizen of	5
The beneficiary has acquired new citizenship and he or she is under the protection of the state whose citizen he or she has become	2
Cessation of subsidiary protection	
The circumstances which were the reason for granting subsidiary protection no longer exist or have changed in such a way that a foreigner no longer requires protection	26

Source: Office for Foreigners.

The above-mentioned figures reveal that nationals of the **Russian Federation** are the beneficiaries of protection most frequently deprived of their status in Poland. Cessation is not systematically applied to them, however. Approx. 100 Russian citizens obtained international protection in Poland in 2022, 89 in 2021, 66 in 2020, 76 in 2019, 70 in 2018, 86 in 2017 and 67 in 2016.⁸⁰⁰ In 2018-2021 Russian citizens were deprived of refugee status predominantly due to having voluntarily accepted protection from the Russian Federation. They were deprived of subsidiary protection predominantly because the circumstances which were the reason for granting subsidiary protection no longer existed or changed in such a way that a foreigner no longer required protection (in 150 cases in 2018, 97 in 2019, 94 in 2020 and 28 in 2021).⁸⁰¹ Based on data received for 2022, it is not possible to establish how many similar cases were registered throughout the year. HFHR concludes that Russian citizens have mostly been deprived of protection as a result of travel to their country of origin after they obtained international protection.⁸⁰² The finding is confirmed by the SIP. According to this NGO, returning to the country of origin – even only to obtain needed documents or to take care of ill family members – is a reason to deprive refugees and beneficiaries of subsidiary protection of their status. The same effect may be entailed by obtaining a passport in the embassy of the country of origin. SIP also points out that beneficiaries of international protection are deprived of protection due to a changed situation in Chechnya. However, in its opinion, both the individual and general circumstances of those cases are not scrutinized sufficiently by Polish authorities.⁸⁰³

In 2022, the Supreme Administrative Court delivered a judgment concerning the cessation of subsidiary protection of a Russian national. The reasons for cessation were twofold: the beneficiary obtained a Russian passport, travelled to Russia 5 times, and the situation in Chechnya significantly changed since his arrival in Poland in 2005. The cassation appeal submitted by the Russian national was dismissed by the Supreme Administrative Court. In particular, the court found that the statements of the complainant that he obtained a passport through an intermediary were not credible, as the passport was biometric; thus, it required personal contact with Russian authorities to provide fingerprints. Moreover, the complainant did not manage to convince the court that he would be individually at risk of harm upon return

⁷⁹⁹ The table informs about the number of instances when a legal basis was invoked in a decision on deprivation of international protection. One decision may have more than one legal basis. Moreover, in Poland, in one decision grounds for cessation and withdrawal can be invoked together.

⁸⁰⁰ Information provided by the Office for Foreigners, 1 February 2018, 15 January 2019, 22 January 2020, 26 January 2021 and 26 January 2022. Office for Foreigners, 'Ochrona międzynarodowa w 2022 r. – ponad dwukrotny wzrost rozpatrzonych wniosków', 24 January 2023, available in Polish at: <http://bit.ly/3G1URT1>.

⁸⁰¹ Information provided by the Office for Foreigners, 15 January 2019, 22 January 2020 and 26 January 2021.

⁸⁰² This reasoning was confirmed by the Supreme Administrative Court in Decision No II OSK 1493/14, 23 February 2016: Lex.pl, 'NSA: uchodźcy z Czeczenii muszą wrócić do kraju', 26 February 2016, available (in Polish) at: <https://bit.ly/2w3JQiM>.

⁸⁰³ M. Sadowska, 'Pozbawienie cudzoziemca ochrony międzynarodowej w Polsce' in SIP, *Prawa cudzoziemców w Polsce w 2019 roku. Raport*, 2020, available (in Polish) at: <https://bit.ly/3jT7weM>, 24-25; A. Pulchny, 'Pozbawienie cudzoziemca ochrony międzynarodowej w Polsce' in Stowarzyszenie Interwencji Prawnej (SIP), *SIP w działaniu. Prawa cudzoziemców w Polsce w 2018 r.* (2019), available (in Polish) at: <https://bit.ly/2w3KcpC>, 24-25.

to Chechnya.⁸⁰⁴ In a similar case, concerning a Russian family of five, having subsidiary protection since 2008, the Supreme Administrative Court accepted that they should be deprived of protection because they obtained a passport from Russian authorities. The court did not find it problematic that the decision of the Head of the Office for Foreigners was issued in 2019 and was based solely on the travels from Poland in the Eastern direction in 2011-2012, while the Russian passport was issued in 2012. The beneficiaries' explanations that they stayed in Belarus and obtained a passport through an intermediary were not found credible.⁸⁰⁵

In 2018-2021 some Russian citizens were also deprived of subsidiary protection because they were considered a security threat or there were serious grounds to believe that they committed a crime (see [Withdrawal of protection status](#)).⁸⁰⁶

In 2022, six persons complained on depriving them subsidiary protection. The court considered 5 cases concerning deprivation of international protection. Only in one, the court revoked the second-instance decision, in the remaining cases it dismissed the beneficiaries' complaints.⁸⁰⁷

6. Withdrawal of protection status

Indicators: Withdrawal

1. Is a personal interview of the beneficiary in most cases conducted in practice in the withdrawal procedure? ☐ Yes ☒ No
2. Does the law provide for an appeal against the withdrawal decision? ☐ Yes ☒ No
3. Do beneficiaries have access to free legal assistance at first instance in practice? ☐ Yes ☐ With difficulty ☒ No

Refugee status is withdrawn ("revoked") where the person:⁸⁰⁸

- a. Has withheld information or documents, or presented false information or documents of significance for the asylum proceedings;
- b. Has committed a crime against peace, a war crime or a crime against humanity, as understood by international law;
- c. Is guilty of acts contrary to the aims and principles of the United Nations, as specified in Preamble and Articles 1 and 2 of the UN Charter.

Subsidiary protection is withdrawn where:⁸⁰⁹

- a. It has been revealed that a foreigner has withheld information or documents or presented false information or documents of significance for the asylum proceedings;
- b. There are serious grounds to believe that a foreigner has committed a crime against peace, a war crime or a crime against humanity, as understood by international law;
- c. There are serious grounds to believe that a foreigner is guilty of acts contrary to the aims and principles of the United Nations, as specified in the Preamble and articles 1 and 2 of the UN Charter;
- d. There are serious grounds to believe that a foreigner has committed a crime in Poland or an act outside Poland which is a crime according to Polish law;

⁸⁰⁴ Supreme Administrative Court, Judgment of 5 July 2022, no. II OSK 1868/21, available here in Polish: <http://bit.ly/3K2hvvK>.

⁸⁰⁵ Supreme Administrative Court, Judgment of 11 January 2022, no. II OSK 1754/21, available here in Polish: <http://bit.ly/3ZuqefY>; Supreme Administrative Court, Judgment of 11 January 2022, no. II OSK 1177/21, available here in Polish: <http://bit.ly/42U70ml>.

⁸⁰⁶ Information provided by the Office for Foreigners, 15 January 2019, 22 January 2020 and 26 January 2021.

⁸⁰⁷ Information provided by the Voivodeship Administrative Court in Warsaw, 17 January 2023.

⁸⁰⁸ Article 21(1) Law on Protection.

⁸⁰⁹ Article 22(1) Law on Protection.

- e. There are serious reasons to believe that a foreigner poses a threat to state security or to the safety of society.

Subsidiary protection may also be revoked if, after an applicant has been granted subsidiary protection, it has been revealed that the beneficiary had committed a crime under Polish law punishable by any prison sentence – regardless of its duration - and had left his or her home country for the sole purpose of avoiding punishment.⁸¹⁰

There is a single procedure in Poland that includes the cessation and withdrawal of international protection. In consequence, the beneficiary may receive a decision on deprivation of international protection, as it is called in Poland, which can be issued on the grounds justifying only a cessation or only a withdrawal or both. The Office for Foreigners shares the data on a general number of 'deprivations' and how often the exact legal basis was used in the respective decisions.

In general, international protection is rather ceased than withdrawn. In 2018, 11 foreigners (incl. 9 citizens of Russia) had their refugee status ceased (10 refugees) or withdrawn (1 person) and 157 (incl. 154 citizens of Russia) had their subsidiary protection ceased (153 beneficiaries) and/or withdrawn (13). In 2019, 6 decisions on cessation of refugee status were issued (incl. 5 citizens of Russia) and 100 (all concerning citizens of Russia) – on deprivation of subsidiary protection (97 ceased and 11 withdrawn). In 2020, 95 Russian citizens had their subsidiary protection ceased (94) and/or withdrawn (4). In 12 cases the refugee status was ceased (11 Russian citizens, 1 Sri Lankan national), and none were withdrawn. In 2021, 32 Russian citizens had their subsidiary protection ceased (28) and/or withdrawn (4). In 4 cases the refugee status was ceased (all Russian citizens).⁸¹¹ In 2022, 9 persons had their refugee status ceased or withdrawn (including 6 Russian citizens, 2 Turkish citizens and 1 Afghan citizen). 33 beneficiaries had their subsidiary protection ceased or withdrawn (including 31 Russian citizens and 2 Afghan citizens).⁸¹² Statistical data provided by the Office for Foreigners did not allow to distinguish cessation from withdrawal cases.

Grounds for withdrawal of international protection in 2022 ⁸¹³	
Withdrawal of refugee status	
The beneficiary is guilty of acts contrary to the aims and principles of the United Nations, as specified in Preamble and Articles 1 and 2 of the UN Charter	3
The beneficiary has withheld information or documents or presented false information or documents of significance for the asylum proceedings	1
Withdrawal of subsidiary protection	
It has been revealed that a foreigner has withheld information or documents or presented false information or documents of significance for the asylum proceedings	4
There are serious reasons to believe that a foreigner poses a threat to state security or to the safety of society.	7

Source: Office for Foreigners.

The "deprivation" procedure in case of withdrawal is the same as in case of cessation and it is described in the section on [Cessation](#).

⁸¹⁰ Article 22(4) Law on Protection.

⁸¹¹ Information provided by the Office for Foreigners since 2019.

⁸¹² Information provided by the Office for Foreigners, 3 February 2023.

⁸¹³ The table informs about the number of instances when a legal basis was invoked in a decision on deprivation of international protection. One decision may have more than one legal basis. Moreover, in Poland, in one decision grounds for cessation and withdrawal can be invoked together.

B. Family reunification

1. Criteria and conditions

Indicators: Family Reunification

1. Is there a waiting period before a beneficiary can apply for family reunification?
☐ Yes ☒ No
❖ If yes, what is the waiting period? n/a
2. Does the law set a maximum time limit for submitting a family reunification application?
☒ Yes ☐ No
❖ If yes, what is the time limit? 6 months
3. Does the law set a minimum income requirement? ☒ Yes ☐ No

The procedure of family reunification is governed by Article 159 of the Law on Foreigners. Family members who are eligible to reunite with the beneficiary are:

- spouse (marriage has to be recognised under the Polish law, but does not have to be concluded before the beneficiary's entry to Poland);
- minor child (biological or adopted) of the family member dependent on them and under their parental authority
- minor child (biological or adopted) of the beneficiary and his or her spouse dependent on them and under their parental authority, who were minors on the date of the application for a temporary residence permit for the purpose of family reunification.

In the case of a minor beneficiary of international protection, family members who can reunite with them are not only parents but also grandparents or other responsible adults under Polish law (e.g. legal guardians). A beneficiary can also apply for a residence permit for a family member, who already stayed in Poland without a permit when the beneficiary had applied for protection. In such a case they have to prove that family has already existed in the country of origin.

There is no waiting period for family reunification in Poland, nor is there a time limit. Both people that obtained refugee status or subsidiary protection are eligible for a simplified family reunification procedure, but it still remains a complicated and expensive procedure. If they submit a relevant application to the relevant Voivode within 6 months from the date of obtaining protection within the territory of Poland, they are not obliged to comply with the conditions of having health insurance, a stable source of income or accommodation in Poland. It must, nonetheless, be remembered that when the residence permit is granted, the beneficiary's family residing outside Poland is obliged to obtain a visa from a Polish consulate. The requirements under which a visa is obtained, in turn, include having adequate financial means and health insurance.⁸¹⁴

There are no differences between refugees and beneficiaries of subsidiary protection as to the family reunification conditions. The beneficiary is not required to know Polish, is not subject to DNA tests, but has to present original documents certifying the family ties, translated into Polish by a sworn translator.

Data on family reunification of beneficiaries of international protection are generally not disaggregated by the authorities.⁸¹⁵ However, for 2022 the Office for Foreigners shared that 103 family members received a temporary stay in Poland:⁸¹⁶ Out of 155 persons who submitted application for family reunification, 41 were recognized as refugees and 62 were beneficiaries of subsidiary protection.

⁸¹⁴ HFHR, *Family Reunification of Foreigners in Poland, Law and Practice*, June 2016, available at: <http://bit.ly/2ILG11B>, 19-20.

⁸¹⁵ A. Kulesa, 'Łączenie rodzin' in A. Górská, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce* (Instytut Spraw Publicznych 2019), 9.

⁸¹⁶ Information from the Office for Foreigners, 3 February 2023.

The main challenges for beneficiaries of international protection to be reunited with their family members are a narrow definition of family members (e.g. civil partners are excluded), lengthy and complicated and costly procedure (submitting and translating official documents, journey to Poland, to Polish consulate, paying several visits to the consulate, getting a visa).⁸¹⁷

2. Status and rights of family members

Family members may be granted a temporary residence permit, if they are not in Poland or if they do not apply for asylum after the arrival. The temporary residence permit to facilitate family reunification of beneficiaries of international protection is granted for up to 3 years. It happens that a temporary stay is issued for only one year. The foreigner is then issued a residence card upon arrival to Poland with an expiry date conforming to the expiry date of the permit that was granted. The card contains the foreigner's personal data, residence address, annotation confirming the right to be employed in Poland, and the expiry date.

Foreigners who have been granted a residence permit under the family reunification procedure may take employment in Poland without the need to apply separately for a work permit, and children under 18 years of age are entitled to free education in Polish schools. Family members of foreigners granted refugee status or subsidiary protection are also entitled to social benefits. They also are entitled to be covered by the Individual Integration Programme provided that a relevant application is submitted with one of the Poviats Family Support Centres (*powiatowe centra pomocy rodzinie*). Such an application must be submitted within 60 days from the date when the temporary residence permit is granted.

In the first half of 2022, 76 persons received the support of 566,576 PLN for integration programs.⁸¹⁸

C. Movement and mobility

1. Freedom of movement

Refugees and subsidiary protection beneficiaries have full freedom of movement in Poland. They can freely choose a place where they want to live, authorities do not require them to live in some particular areas of the country.

There are no specific facilities for refugees and subsidiary protection beneficiaries in Poland. They are entitled to stay in reception centres up until 2 months after the decision on the asylum application becomes final. Afterwards, they have to organize all living conditions themselves.

Beneficiaries are obliged to reside in a place (within the specified voivodeship) agreed with the authorities during the 12 months of the Individual Integration Programme (IPI) (see [Social welfare](#)).⁸¹⁹ In general, a change of a place of residence is equated with the termination of the programme. However, a change of residence is allowed in particularly justified cases, e.g. in case of:

- 1) finding a job in another region with a possibility of accommodation;
- 2) obtaining accommodation in another region;
- 3) family reunification, when the possibility to live together exists;
- 4) medical reasons justifying a move.

In those cases, the beneficiary has to inform authorities about the move and its reasoning. Then, the programme can continue in a new place of living.

Refugees and subsidiary protection beneficiaries are not assigned to a specific residence for reasons of public interest or public order.

⁸¹⁷ Ibidem, 21.

⁸¹⁸ Information provided by the Ministry of Family, Labour and Social Policy, 16 January 2023.

⁸¹⁹ Article 94 of Law of 12 March 2004 on social assistance.

2. Travel documents

Refugees obtain travel documents mentioned in the Refugee Convention, which are valid for 2 years from the day of issuance.⁸²⁰ Subsequent travel documents are issued on the refugee's demand.⁸²¹ The document is issued free of charge, whether a first travel document or a subsequent one. The authority responsible for the issuance of refugee travel documents is the Head of the Office for Foreigners.⁸²² The procedure concerning refugee travel documents should last one month or two if it is a complicated case.

A refugee travel document has to be received in person. A travel document for a child under the age of 13 should be received in person by his or her legal representative.⁸²³ In case of *force majeure* preventing a foreigner to receive a document in person, the refugee travel document can be received by a proxy.⁸²⁴ Foreigners are obliged to give their fingerprints any time they apply for a refugee travel document.⁸²⁵ The obligation to give fingerprints and mandatory personal presence to receive the travel document means that most of the time refugees willing to obtain a new travel document have to travel to Warsaw twice, even if they live far away. It is time-consuming and costly.

Beneficiaries of subsidiary protection can apply for a Polish travel document for foreigners. The application for the document should be submitted to a Voivode having jurisdiction over the current place of stay of a foreigner and requires a fee of 350 PLN / 75 € (the amount has been significantly raised since 29 July 2022 from PLN 100). If a person concerned lost their Polish travel document or destroys it (and it is a culpable loss or destruction), they must pay PLN 700 (EUR 149) for a new one. If it happens again, he/she must pay PLN 1050 (EUR 223).⁸²⁶

A Polish travel document will be issued only if a beneficiary of subsidiary protection: has lost his or her passport or the passport has been damaged or its validity has expired, *and* he or she is unable to obtain a new passport from the authorities of the country of origin.⁸²⁷ The inability to obtain a new passport from the authorities of the country of origin is often understood by the Polish authorities as a requirement for beneficiaries to present written evidence that they have contacted the embassy of their country of origin and that this authority has refused to issue a passport for them. Often foreign authorities are unwilling to issue a document confirming those facts. Moreover, some beneficiaries of subsidiary protection are afraid to contact the authorities of their country of origin, because they sought protection in Poland due to the persecution or harm they experienced from their national authorities. The expression of this fear is often not enough to convince the authorities that the person concerned cannot obtain a travel document from the country of origin. In a 2021 judgment, the Supreme Administrative Court stated:

"It should be pointed out that a failure to take any actions aimed at obtaining a travel document is justified in a situation where their taking may have a negative impact on the legal or factual situation of the foreigner. Such a situation may arise when the applicant is a beneficiary of one of the forms of international protection (see the judgment of the Supreme Administrative Court of December 13, 2018, file reference number II OSK 309/18, CBOIS). The mere fact of granting international protection does not create a presumption that it is impossible for a foreigner to obtain a new travel document from the authorities of the country of origin and that the authority should not demand the presentation of documents and certificates confirming this impossibility. This circumstance should be subject to individual assessment. The authority should analyse the reasons for granting international protection to the party and assess

⁸²⁰ Article 89i(1) and (3) Law on Protection.

⁸²¹ Article 89m Law on Protection.

⁸²² Article 89n(1) Law on Protection.

⁸²³ Article 89ib(1) and (2) Law on Protection.

⁸²⁴ Article 89ib(4) Law on Protection.

⁸²⁵ Articles 89i(4) and 89m Law on Protection.

⁸²⁶ Office for Foreigners, 'Nowe stawki opłat za dokumenty wydawane cudzoziemcom', 29 July 2022, available in Polish at: <http://bit.ly/3IPTv73>.

⁸²⁷ Article 252(3) Law on Foreigners.

whether the foreigner's possible contact with the authorities of the country of origin may have a negative impact on his situation.⁸²⁸

The procedure concerning the Polish travel document for a foreigner should last one month or two if it is a complicated case. In practice, however, it may last longer.

Refusal to issue a Polish travel document for a foreigner can be appealed to the Head of the Office for Foreigners.

The Polish travel document for a foreigner entitles to multiple border crossings and is valid for 1 year.⁸²⁹ After that period, a beneficiary of subsidiary protection needs to apply for another such document. Even in case of an application for a subsequent Polish travel document, after the previous one expires, beneficiaries of subsidiary protection are expected to again take measures to obtain the passport from their country of origin.⁸³⁰

	Number of Refugee Convention travel documents (issued to recognized refugees)	Number of Polish travel documents (issued to beneficiaries of subsidiary protection)
2017	658	102
2018	555	Not available
2019	681	38
2020	538	129
2021	950	238
2022	1,308	304

Source: Authors of this report based on an analysis of the statistics shared by the Office for Foreigners.

D. Housing

Indicators: Housing

1. For how long are beneficiaries entitled to stay in reception centres? 2 months
2. Number of beneficiaries staying in reception centres as of 31 December 2022: 1089⁸³¹

The Constitution of the Republic of Poland stipulates in Article 52(1) that: "Everyone shall be guaranteed freedom of movement in the territory of the Republic of Poland and the choice of place of residence and stay".⁸³² This means that the beneficiaries of international protection decide independently where they will live. However, during the integration programme, lasting 12 months, the beneficiaries' mobility is subject to restrictions – change of place of residence is allowed only in particularly justified cases (see the section on [Individual Integration Programme \(IPI\)](#)). Polish law does not offer separate legislation regarding housing for foreigners, including beneficiaries of international protection. Beneficiaries of international protection are generally subject to the same general conditions that apply to Polish citizens. Foreigners' rights on access to housing are limited in terms of property rights. They can purchase flats, but if they purchase land or a house, they must obtain permission from the Ministry of the Interior and Administration.⁸³³

⁸²⁸ See e.g. Supreme Administrative Court, Judgment of 19 October 2021, no. II OSK 1420/21, available in Polish at: <http://bit.ly/3ZAcj7U>, concerning an individual having a humanitarian stay in Poland married to the subsidiary protection beneficiary (author's translation).

⁸²⁹ Article 253 Law on Foreigners.

⁸³⁰ Article 254 Law on Foreigners.

⁸³¹ Information provided by the Office for Foreigners from 3 February 2023.

⁸³² Article 52(1) of the Constitution of the Republic of Poland.

⁸³³ Article 1(1) of the Law of 24 March 1920 on the Acquisition of Immovable Properties by Foreigners [*Ustawa z 24 marca 1920 o nabywaniu nieruchomości przez cudzoziemców, Dz.U. 1920 nr 31 poz. 178*].

Beneficiaries of international protection are allowed to stay in the centres for 2 months after being granted a positive decision.⁸³⁴ Then when beneficiaries enter the Individual Integration Programme they are offered housing assistance (rather in the form of advice). There is a general lack of social housing for Polish nationals as well, so the situation of beneficiaries is difficult in this regard.⁸³⁵ General conditions to obtain housing under the law are hard to fulfil for beneficiaries because of their relatively short stay in Poland and mobility.⁸³⁶

Warsaw is home to the largest number of beneficiaries of international protection living in Poland. Besides the possibility of applying for a social or communal flat from the districts on a general basis, foreigners enrolled in integration programs and requiring special housing support may also apply for a right to live in a “protected flat” run by the Warsaw Family Support Centre since 2011.⁸³⁷ The period of stay in that kind of flat should coincide with the period of implementing IPI and should not exceed 12 months but in particular cases, this stay may be extended (e.g., in the case of serious illness or during a period of time when a foreigner is waiting for a flat from the city’s housing stock). From 2011 to 2018, a total of 51 people, including 29 children – benefited from the “protected flat” housing support.⁸³⁸

Another form of housing support for beneficiaries of international protection, which is specific to Warsaw, is the so-called “housing contest”, also organised by the Warsaw Family Support Center in cooperation with Warsaw City Hall’s Housing Office and Assistance and Social Projects Office. Foreigners who complete an IPI and do not succeed in obtaining a social or communal flat in the general procedure can participate in a contest to receive a recommendation to obtain a communal flat (since 2021, the Center can issue up to 20 recommendations per year).⁸³⁹ Annually, a special qualification commission, which consists of five representatives (two from the Warsaw Family Support Center, one each from the Housing Office, Assistance and Social Projects Office, and one from NGOs operating in the capital) evaluates applications, taking into consideration criteria such as family/financial situation but also the level of integration.

The procedure is not only to support foreigners who are in an unfavourable housing situation but also to promote those who are distinguished and involved in the implementation of the integration programs. Some municipalities provide singular flats annually, dedicated for beneficiaries. Besides Warsaw, there are cities such as Gdansk and Lublin that have some kind of special housing support programs or solutions dedicated to foreigners.⁸⁴⁰ For the housing opportunities for foreigners fleeing Ukraine see [Temporary Protection annex](#) to the report.

It is important to understand, that difficulty in finding adequate housing for beneficiaries is a part of a general shortage of affordable housing. According to experts, there is a shortage of about 2.1 million houses in Poland.⁸⁴¹ This situation most frequently affects people with medium and low income. They neither have access to cheap mortgages nor the finances to buy the apartments. The social housing in the country estimated at 150–200 thousand premises is insufficient for the needs of the population.⁸⁴²

⁸³⁴ Article 74(1)2 Law on Protection.

⁸³⁵ Maryla Koss-Goryszewska ‘Mieszkalnictwo’ in A. Górka, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce* (Instytut Spraw Publicznych 2019), available (in Polish) at: <https://bit.ly/2w3NkBS>, 27.

⁸³⁶ Ibidem, 29.

⁸³⁷ Program “protected flat” [*mieszkanie chronione*] was established on the basis of the Ordinance no 47/2011 from 28 September 2011 of the Head of the Warsaw Family Support Centre, which was then replaced by the Ordinance no 11/2015 from 24 February 2015 of the Head of the Warsaw Family Support Centre, available (PL) at: <https://bit.ly/44CVXiR>

⁸³⁸ D. Wach, M. Pachocka, *Polish Cities and Their Experience in Integration Activities – The Case of Warsaw*, 2022, available at: <https://bit.ly/3KHvuZks>, 96–98.

⁸³⁹ Program “housing contest” [*konkurs mieszkaniowy*] is regulated by the Ordinance no 46/2021 from 20 October 2021 of the Head of the Warsaw Family Support Centre, available (PL) at: <https://bit.ly/3B5DC0e>

⁸⁴⁰ D. Wach, M. Pachocka, *Polish Cities and Their Experience in Integration Activities – The Case of Warsaw*, 2022, available at: <https://bit.ly/3KHvuZks>, 98.

⁸⁴¹ Heritage Real Estate Think Tank, *Ile mieszkań brakuje w Polsce* [What is the housing deficit in Poland], report in cooperation with UN Global Compact Network Poland, November 2018, available at: <https://bit.ly/42C5xQX>.

⁸⁴² K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, M. Szulecka, *From Reception to Integration of Asylum Seekers and Refugees in Poland*, 2023, available at: <https://bit.ly/3KiKMCy>, 158.

Some of the key challenges related to housing which affect particularly beneficiaries of international protection include:

- the limited supply of affordable housing,
- high rental costs (especially in big cities),
- discrimination in the housing market,
- the lack of specialised housing counselling for beneficiaries of international protection,
- the risk of homelessness after the end of institutional support under the IPI.⁸⁴³

Some researchers stress that although there is no data on the number of homeless beneficiaries of international protection, there is a high probability that the number is substantial.⁸⁴⁴ Stereotypes and negative attitude towards foreigners prevail. Finding accommodation for large families is even more challenging. IPI is not tailored to tackle these problems.⁸⁴⁵

Another extensive study on integration from 2020 shows that housing is one of the major issues for both asylum seekers and beneficiaries of international protection in Poland. The shortage of affordable housing makes the situation of persons with international protection particularly difficult. Consequently, the lack of housing opportunities results in slowing down the process of adaptation of foreigners to the new socio-cultural conditions of the host country, and may have a negative impact on their physical and mental health.⁸⁴⁶ One significant reason why some individuals who receive international protection opt to leave Poland and seek better living conditions in Western European countries is the challenge of finding suitable and affordable housing. These countries may also have more extensive diaspora and support networks available.⁸⁴⁷

SIP confirms that in 2022 the problem with accommodation-related discrimination of third-country nationals persisted. According to this NGO, the increasing hostility towards foreigners, fueled by prominent politicians, is not being adequately addressed by the Polish authorities. Finding an affordable flat in the market is difficult and social flats are hardly accessible, so many international protection beneficiaries are at risk of homelessness.⁸⁴⁸

The situation in 2022 was additionally complicated by arrival en masse of persons from Ukraine, which made it nearly impossible to rent apartments in larger cities. (see section in [TP report](#)).

⁸⁴³ Ibidem, 147.

⁸⁴⁴ Maryla Koss-Goryszewska 'Mieszkalnictwo' in A. Górską, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce* (Instytut Spraw Publicznych 2019), available (in Polish) at: <https://bit.ly/2w3NkBS>, 30.

⁸⁴⁵ NGOs alternative report to the government report on implementation of the Convention of the Rights of the Child, submitted to UNICEF, August 2020, available (in Polish) at: <https://bit.ly/3s3hZXK>.

⁸⁴⁶ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', *Multilevel Governance of Mass Migration in Europe and Beyond Project* (#770564, Horizon2020), available at: <http://bit.ly/3bfjTxL>, 11.

⁸⁴⁷ Ibidem, 136.

⁸⁴⁸ Stowarzyszenie Interwencji Prawnej and others, third party joint submission to the 41st Session of the Human Rights Council Universal Periodic Review of Poland – 4th cycle, 2022, available at: <https://bit.ly/3mdl9ec>, p.4.

E. Employment and education

1. Access to the labour market

Refugees and beneficiaries of subsidiary protection have access to labour market on the same conditions as Polish citizens. There is no difference between refugees and subsidiary protection beneficiaries in this regards. Access to employment is not limited to certain sectors.

Beneficiaries of international protection face many challenges in entering the labour market. It starts with the long period of exclusion during the first six months of the procedure for international protection when they are not allowed to work. Then they face other obstacles, such as discrimination by potential employers and performance of simple and low-paid jobs, which pushes them into undocumented work. They often work below their qualifications and skills or do not work at all due to family responsibilities. Other problems influencing their situation are trauma and depression. Also, research shows that in order to achieve a good level of integration in the labour market, it is important to have appropriate information, social networks, adequate language training, and a welcoming atmosphere.⁸⁴⁹ However, the two most significant challenges that beneficiaries of international protection need to overcome to access the labour market are language and recognition of education and qualifications.⁸⁵⁰ Additionally, local labour offices are rated quite negatively by NGO representatives working with refugees, since they are not prepared to help beneficiaries of international protection to enter the labour market in Poland, despite a clear obligation to do so in the law.⁸⁵¹ NGOs report that foreign employees face discrimination, based on multiple factors (including nationality, race, religion, gender, age).⁸⁵²

Low language skills and low professional qualifications results in unemployment or employment with low salary; instability of employment; small chances for a promotion.⁸⁵³ It is easier to find a job in bigger cities, e.g. in **Warsaw** where vocational trainings are provided in foreign languages. Support of the state is only provided during the 12-month Individual Integration Programme (IPI). Although beneficiaries of international protection have access to professional qualifications programs, they are held in Polish which exclude their participation in practice. There are no programs specially dedicated to foreigners improving professional qualifications by learning Polish. Additionally, the specific needs of foreigners are not taken into account.⁸⁵⁴

In the report from 2020, the following issues were identified: insufficient knowledge of Polish by beneficiaries of international protection, modest linguistic skills of the labour market services and limited ties and social networks, which often act as barriers for them to find a job.⁸⁵⁵ Assistance provided by social workers within IPI in most cases consists of support in completing the documentation necessary to register at the labour office, searching for job offers and contacting a potential employer as well as

⁸⁴⁹ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, M. Szulecka, *From Reception to Integration of Asylum Seekers and Refugees in Poland*, 2023, available at: <http://bit.ly/3KiKMCy>, 179.

⁸⁵⁰ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, M. Szulecka, *From Reception to Integration of Asylum Seekers and Refugees in Poland*, 2023, available at: <http://bit.ly/3KiKMCy>, 168.

⁸⁵¹ Ibidem, 171.

⁸⁵² P. Mickiewicz, *Dyskryminacja cudzoziemców na rynku pracy* [in] Stowarzyszenie Interwencji Prawnej (SIP), *SIP w działaniu. Prawa cudzoziemców w Polsce w 2018 r.* (2019), available (in Polish) at: <http://bit.ly/2S507LV>, 53.

⁸⁵³ Mikołaj Pawlak 'Zatrudnienie' in A. Górską, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce* (Instytut Spraw Publicznych 2019), 32.

⁸⁵⁴ Mikołaj Pawlak, 'Kwalifikacje zawodowe' in A. Górską, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce* (Instytut Spraw Publicznych 2019), 37.

⁸⁵⁵ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', *Multilevel Governance of Mass Migration in Europe and Beyond Project* (#770564, Horizon2020), available at: <http://bit.ly/3bfjTxL>

informing about the possibility of participating in vocational training in Polish. Vocational trainings on the other hand do not respond to market needs.⁸⁵⁶

An important finding of the study is that despite early and effective inclusion in the labour market which gives a greater chance for integration of beneficiaries of international protection with Polish society, there is a lack of mechanism to mainstream integration of beneficiaries of international protection in the labour market. There is also a lack of a monitoring system for the acquisition of work skills and recognition of qualifications as well as for labour market inclusion of beneficiaries of international protection. Moreover, data related to trainings and the effectiveness of IPI in relation to labour market inclusion are not collected in a systematic way.⁸⁵⁷

One of the key problems remains insufficient knowledge of the Polish language by beneficiaries of international protection. Refugees interviewed for research often bring up that employers do not have time for explanations and translations.⁸⁵⁸ Hence, provision of long-term and effective language courses remains one of the key factors needed for improving the access to labour market. Meanwhile, around 35 per cent of beneficiaries of international protection attend language courses. This results from either lack of courses in some localities, an inability to reconcile work with participation in a course due to the latter's hours, or low attractiveness of the courses (i.e. their failure to meet the needs of refugees).⁸⁵⁹

Another issue reported in 2022 by SIP is that migrant workers who suffered exploitation or abuse in Poland are not sufficiently assisted. No state support is offered to them. National Labour Inspectorate is an authority that investigates the legality of migrants' work and punishes them for working without needed documents rather than offering support in the event of exploitation or abuse.⁸⁶⁰

2. Access to education

According to the Polish constitution, everyone has a right to education, and education is compulsory until the age of 18. Thus, the right to education is guaranteed not only to Polish citizens but to all children living in Poland, including beneficiaries of international protection, who have free and unlimited access to education in public schools until the age of 18 or the completion of high school. Concerning higher education, beneficiaries of international protection have free access to it under the conditions applicable to Polish citizens.

The situation of IP beneficiaries generally does not differ from the situation of asylum seekers (see above Error! Reference source not found.). The situation of IP beneficiaries can be worse because the schools near the reception centres are more familiar with the challenges related to foreign pupils than other schools in the country.

Data on the number of foreign children is collected through the nationwide Educational Information System. The analysis of this data and comparison with other information shows that the system of collecting information on foreign students is flawed and data is incomplete. This is mainly due to the difficulties in correctly determining the legal status of pupils by the school staff.⁸⁶¹

⁸⁵⁶ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', *Multilevel Governance of Mass Migration in Europe and Beyond Project* (#770564, Horizon2020), available at: <http://bit.ly/3bfjTxL>

⁸⁵⁷ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', *Multilevel Governance of Mass Migration in Europe and Beyond Project* (#770564, Horizon2020), available at: <http://bit.ly/3bfjTxL>, 134.

⁸⁵⁸ RESPOND Poland Policy Brief, Adult Refugees' Integration in Poland, 2021, <https://bit.ly/3vrD0QZ>

⁸⁵⁹ RESPOND Poland Policy Brief, Adult Refugees' Integration in Poland, 2021, <https://bit.ly/3vrD0QZ>

⁸⁶⁰ Stowarzyszenie Interwencji Prawnej and others, third party joint submission to the 41st Session of the Human Rights Council Universal Periodic Review of Poland – 4th cycle, 2022, available at: <https://bit.ly/3mdl9ec>

⁸⁶¹ K. Potoniec (ed), Comparative analysis of instruments supporting the integration of pupils under international protection in the educational systems of the Czech Republic, Poland and Hungary, 2021, <https://bit.ly/35FtMps>, 12.

As research shows, even though there are instruments stipulated by the law and designed for foreign children, such as additional Polish language classes, compensatory classes, preparatory classes and cross-cultural teachers' assistants, due to insufficient funding their implementation is often inadequate.⁸⁶² Some research shows that the biggest shortcoming of the inclusion of refugee children in the education system is the lack of trainings and methodological support for teachers who work with them.⁸⁶³ Other studies highlighted that children beneficiaries face more obstacles than other children with an immigrant background because of disrupted or minimal prior education. The challenges might also include a lack of documentation of their education, credentials, and diplomas. This makes it difficult to assess their skills. In addition, refugee children often deal with PTSD caused by trauma, pain, and the protracted lack of stability.⁸⁶⁴

In 2022 the issue of education of refugee children was dominated by the arrival of a large number of children from Ukraine (see [TP report](#)).

With regard to the education of adults, the most important issues appeared to be learning Polish language and recognition of education obtained in the countries of origin.⁸⁶⁵ Beneficiaries of international protection have free access to higher education, under the same conditions as Polish citizens (tuition, completed secondary-level education and a maturity certificate). Nonetheless, the absence of this document for refugees does not hinder their ability to pursue studies, as there is an administrative recognition procedure specifically designed for them.⁸⁶⁶

Knowledge of the host country's language is perceived as one of the most important factors of successful integration, determining access to education, labour market, health, etc. Beneficiaries of international protection are obliged to learn Polish if they participate in an integration programme (IPI), and if there is a need for their participation in a course. Participation in IPI does not include automatic registering for a Polish language course, because it depends on the availability of the courses. Assessment of the need to learn Polish is made by a social worker from the family support centre responsible for mentoring the beneficiaries of the IPI. However, it is not specified what level of Polish language the beneficiary should reach after accomplishing the programme.⁸⁶⁷ Another problem is that IPI lasts only 12 months and so is the obligatory period of participation in the Polish language course.

The key challenges in the language education of adults identified in the latest research were:

- finding the right course: those organised for free by NGOs are usually overcrowded, because of the huge interest, and the ones run by private language schools are expensive (and the price can be a deterrent factor, even if it is reimbursed within IPI);
- lack of effectiveness of the courses, the lack of methodology of teaching based on the needs of learners and the lack of different approaches depending on the group's native languages;
- lack of possibility to combine work with courses. The lack of organised childcare during language classes also makes it difficult for women who take care of children to attend the class.⁸⁶⁸

⁸⁶² K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, M. Szulecka, *From Reception to Integration of Asylum Seekers and Refugees in Poland*, 2023, available at: <http://bit.ly/3KiKMCy>, 121.

⁸⁶³ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', *Multilevel Governance of Mass Migration in Europe and Beyond Project* (#770564, Horizon2020), available at: <http://bit.ly/3bfjTxL>, p. 135.

⁸⁶⁴ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, M. Szulecka, *From Reception to Integration of Asylum Seekers and Refugees in Poland*, 2023, available at: <http://bit.ly/3KiKMCy>, 122.

⁸⁶⁵ Ibidem.

⁸⁶⁶ Ibidem.

⁸⁶⁷ Ibidem.

⁸⁶⁸ Ibidem, 131.

F. Social welfare

Beneficiaries of international protection have access to social welfare on equal terms as nationals. There is no difference in treatment between refugees and subsidiary protection beneficiaries.

1. Forms of social assistance

Social assistance can be provided *inter alia* for the following reasons: orphaned children; poverty; homelessness; unemployment; disability; long-term or severe disease, violence in the family; the need to protect the child and family; addiction (alcoholism and drug addiction); difficulties in the integration of foreigners who were granted refugee status, subsidiary protection, sudden and unpredictable situations (natural/ecological disaster, crisis, random event), difficulties in integration due to leaving the care and educational institution or prison.

Social assistance is granted to beneficiaries of international protection whose income does not exceed PLN 776 (161 €) (for a single person), or PLN 600 (121 €) (for a person in the family).⁸⁶⁹ The application for social assistance has to be filed before the Social Welfare Centre (*Ośrodek Pomocy Społecznej*, OPS) which is located in the district where beneficiaries of international protection reside.⁸⁷⁰

Beneficiaries of international protection are also entitled to family benefits and supplements (*świadczenia rodzinne i dodatki*) under two conditions also applicable to Polish nationals: (a) residence in Poland; and (b) the average monthly family income per person in a family, which cannot exceed 674 PLN (149 €) or 764 PLN (169,5 €)⁸⁷¹ if the child in the family is certified as disabled. They have a right to apply for:

- Family allowance
- Childbirth aid and supplement
- Attendance allowance
- Parental benefit
- Supplement for the beginning of the school year, education away from home, education and rehabilitation of a disabled child, raising a child in a numerous family, raising a child alone, and caring for a child during parental leave.

Furthermore, beneficiaries of international protection have a right to apply for special financial support under the government “500+ Programme”, which is paid on a monthly basis. This benefit is for families with children and should be spent on the need of the child regardless of income. For families with a disabled child, the net income criterion is 1,200 PLN (266€). The benefits are granted by the Municipal Office of Social Welfare, acting on behalf of the President of the city.

On the other hand, single mothers who are recognised beneficiaries of international protection, still face obstacles in receiving the above-mentioned benefits. According to the law, they have to provide a court with a writ of execution (*tytuł wykonawczy*) confirming maintenance benefit from the other parent. As a result of these regulations, they are deprived of those benefits because they are not able to present that required document due to their exceptional personal and family situation.⁸⁷²

2. Individual Integration Programme (IPI)

Beneficiaries of international protection are also entitled to the Individual Integration Programme (IPI) provided by the Poviats Family Support Centres (*Powiatowe Centra Pomocy Rodzinie*, PCPR). They have to submit an application for IPI with additional documentation to the head of the Povia (starosta) through the PCPR within 60 days from the date beneficiaries of international protection received a decision on

⁸⁶⁹ Since 1 January 2022.

⁸⁷⁰ Ministry of Family, Work and Social Policy, Information available (PL) at <https://bit.ly/41m2U4M>.

⁸⁷¹ Ministry of Family, Work and Social Policy, Information, available (in Polish) at: <https://bit.ly/38lyK0m>.

⁸⁷² Legal Intervention Association, “*SIP w działaniu. Prawa Cudzoziemców w Polsce 2019*”, 2020, available (in Polish) at: <https://bit.ly/3sloolp>.

refugee status or subsidiary protection. The application covers also the spouse and the minor children of the applicant if they were covered by the applicant's asylum application. On the other hand, children born in Poland after the completion of the parents' integration program are not granted such assistance.⁸⁷³ Likewise, the spouse of a Polish citizen has been excluded by law from the right to apply for the IPI.

The Programme takes 12 months during which integration assistance is provided. This assistance includes:

- Cash benefits for the maintenance and coverage of expenses related to learning the Polish language;
- Payment of the health insurance premium specified in the provisions on general insurance in the National Health Fund;
- Special social counselling.

The social worker carries out the so-called environmental interview with a beneficiary of international protection and their family, and then together with them draw up an IPI. The programme determines the amount, scope and forms of integration assistance, as well as mutual obligations of the beneficiary and PCPR. The minimum cash benefit amount is PLN 647 (149 €), per person per month. Financial assistance is paid from the month beneficiaries of international protection applied for IPI or from the moment they left the open centre for foreigners.

Since 1 October 2018 (unchanged as of April 2023) beneficiaries of international protection are entitled to receive:

1) during the first 6 months of the integration program:

- up to PLN 1376,00 (291 €) per month - for a single person;
- up to PLN 963.20 (204 €) per person per month - in a 2-person family;
- up to PLN 825.60 (175 €) per person per month - in a 3-person family;
- up to PLN 688 (145 €) per month per person - for a family of four and more.

2) in the period from 7 to 12 months of the integration program:

- up to PLN 1238.40 (262 €) per month - for a single person;
- up to PLN 866,88 (183 €) per person per month - in a 2-person family;
- up to PLN 743,04 (157 €) per person per month - in a 3-person family;
- up to PLN 619 (131€) per month per person - for a family of four and more.⁸⁷⁴

PCPR assists the beneficiary to obtain housing in a place of residence of his or her choice, where he or she is obliged to reside during the 12-month period of the IPI. A change of residence is allowed in particularly justified cases. In case the beneficiary changes residence in the region without informing PCPR, the programme will be terminated.

In practice, beneficiaries face several obstacles in obtaining social assistance, ranging from a lack of awareness of their rights and language barriers to the discretion of authorities in the limits of financial assistance granted to the requirement of translated forms and official documents which cannot be obtained from their country of origin e.g. alimony judgment to receive the "500+" child benefit. The need

⁸⁷³ SIP, We present our comments to the European Commission Against Racism and Intolerance, June 2022, available (EN) at: <https://bit.ly/3LNUl0o>.

⁸⁷⁴ Ministry of Family, Work and Social policy, *ROZPORZĄDZENIE MINISTRA PRACY I POLITYKI SPOŁECZNEJ z dnia 7 kwietnia 2015 r. w sprawie udzielania pomocy cudzoziemcom*, available (in Polish) at: <https://bit.ly/38PPAuB>.

for the entire family to reside in Poland may also pose difficulties.⁸⁷⁵ According to the NIEM report,⁸⁷⁶ the regulations guiding the IIP have been out of date for more than a decade now, and they no longer respond to the needs of its beneficiaries.

As studies find, social policy provides few to no resources needed to maintain oneself independently in Poland.⁸⁷⁷ By delivering mostly financial assistance, integration programmes help families to survive on a daily basis but fail to build the resources needed to become independent, to achieve appropriate adaptation levels in a new environment and prepare themselves to cover free market rental costs. For some participants, the programmes strengthened their feelings of lacking control over their lives and the helplessness already developed during the asylum procedure. There is a lack of adequate social work with beneficiaries. The financial means are not sufficient for renting a flat on the commercial market and only a few of them can count on receiving social or communal housing.⁸⁷⁸ According to SIP and NIEM reports,⁸⁷⁹ IPI should last longer than 12 months, and be practically adapted to individual needs of applicants. Additionally, integration assistance should also be granted to children born after the completion of parents' integration programs.⁸⁸⁰

The case workers interviewed in the study explained that, because they have too many integration programmes to manage monthly, it was practically impossible for them to offer any social work counselling, and they instead focused on managing monetary transfers.⁸⁸¹ Most of the IPIs are implemented by WCPR (Warszawskie Centrum Pomocy Rodziny), which department of Social Integration and Crisis Intervention has four social workers who provide integration assistance to beneficiaries of international protection.⁸⁸²

In the first half of 2022, 3,358,688 PLN was spent on different kinds of social welfare for recognised refugees (compared to 1, 216,579 PLN in 2021,) and 4 424 694 PLN was spent for beneficiaries of subsidiary protection (compared to 2,874,817 PLN in 2021).⁸⁸³ Assistance was provided in the form of social assistance, psychological and legal support, assistance in local institutions, financial support, and cash benefits for learning the Polish language as part of the implementation of the individual programme of integration.

Social Welfare Centres assisted 227 families (453 persons) in 2022 of recognised refugees and 465 families (731 persons) under subsidiary protection.⁸⁸⁴ In Warsaw, it takes around one year in practice for recognised refugees and individuals with subsidiary protection to start receiving financial assistance under this program.⁸⁸⁵

⁸⁷⁵ Commissioner for Human Rights, 'Prawo do świadczeń rodzinnych cudzoziemki objętej ochroną uzupełniającą w sytuacji, gdy nie wszyscy członkowie rodziny zamieszkują w Polsce, PCPR', 10 January 2018, available (in Polish) at: <http://bit.ly/2C8lYey>.

⁸⁷⁶ NIEM diagnosis of the situation of beneficiaries of international protection in Poland, 2019, available (EN) at: <https://bit.ly/3HYgWTs>.

⁸⁷⁷ Lukaszewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', International Migration Vol. 55 (6) 2017, 65, see also Prawa dziecka-Raport Alternatywny, August 2020, available (in Polish) at: <https://bit.ly/30eskUX>.

⁸⁷⁸ Ibidem.

⁸⁷⁹ List of recommendations to improve housing situation of Beneficiaries of International Protection in Poland – prepared by Refugee Council operating within the NIEM/V4NIEM, <https://bit.ly/3huJ56L>.

⁸⁸⁰ SIP, Komentujemy propozycje zmian w ustawie o pomocy społecznej, available (in Polish) at: <http://bit.ly/3uVH2yi>.

⁸⁸¹ Lukaszewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', International Migration Vol. 55 (6) 2017, 65.

⁸⁸² K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', Multilevel Governance of Mass Migration in Europe and Beyond Project (#770564, Horizon2020), available at: <http://bit.ly/3bfjTxL>.

⁸⁸³ Ministry of Family, Labour and Social Policy, Report from the first half of 2022, *Report 2021*, available (in Polish) at: <https://bit.ly/3MbQ8S1>.

⁸⁸⁴ Information provided by the Ministry of Family, Labour and Social Policy, 16 January 2023.

⁸⁸⁵ Information provided by HFHR, April 2023.

G. Health care

The right to healthcare is a constitutional right, applicable to third-country nationals as well as to citizens.

Beneficiaries of international protection and members of their families are subject to the same rules as residents of Poland in accessing healthcare, based on public health insurance. Being “insured” usually is related to the age and economic activity of the person (e.g., those under 18 years old, lawfully employed or retired, or registered as an unemployed person). Beneficiaries of international protection and members of their families who have temporary residence permits are directly included on the list of persons authorised to access public healthcare services if they are not “insured”, provided that their income meets the criterion specified in the Law on Social Assistance. Beneficiaries of refugee status or subsidiary protection obtained in Poland covered by an IIP are “insured” under the programme (except when they are insured for another reason).⁸⁸⁶

Importantly, in Poland, all children under 18 years old are entitled to free health care, even if they are not insured and the cost of their treatment is covered by the State Treasury. Children under 19 years old who attend school, regardless of their migration status, are covered by preventive healthcare which includes medical and dental examinations, rehabilitation programmes, health awareness education and health emergency education provided by school or district nurses.⁸⁸⁷

The health insurance with the NFZ covers all guaranteed health care services specified in the lists of the Ministry of Health. They include both basic and specialist medical services, vaccinations, diagnostic testing (laboratory or other), rehabilitation, hospital care and medical rescue services, emergency ambulance services and medical transport. Notably, nursing care for elderly persons is not provided in Poland.⁸⁸⁸

Although these provisions were in place for years, there are still cases where they are put in question. In 2021, SIP reported a case of a woman granted subsidiary protection 10 years earlier, who was charged with the costs of perinatal care provided in the hospital when she was delivering her child. This action was taken based on a decision made by the President of the NFZ. The reasoning of the decision mentioned that at that time the woman had not had social insurance. As a result of a complaint submitted by the woman, assisted by the NGO lawyer, the authority annulled its own decision admitting that the woman had a right to cost-free perinatal care.⁸⁸⁹

The main issue concerning access to healthcare are linguistic and cultural barriers.⁸⁹⁰ Access to interpretation in the health care system is not available at all.⁸⁹¹ Other challenges are similar to the challenges Polish nationals are facing as well: long waiting time to have an appointment with a specialist, costly private medical services and expensive medicines. The IP beneficiaries’ access to health care is jeopardised by difficulties in accessing legal forms of employment, which guarantee free health care.⁸⁹²

⁸⁸⁶ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, M. Szulecka, *From Reception to Integration of Asylum Seekers and Refugees in Poland*, 2023, available at: <http://bit.ly/3KiKMCy>, 201.

⁸⁸⁷ Article 27(1) and (3) Law on healthcare services financed from public funds.

⁸⁸⁸ Alexander Wolffhardt, Carmine Conte, Thomas Huddleston, *The European benchmark for refugee integration: A comparative analysis of the National Integration Evaluation Mechanism in 14 EU countries*, 2019, available at: <https://bit.ly/2SlshUh>, 122.

⁸⁸⁹ SIP, Opieka medyczna dla kobiet w okresie porodu i pójogu oraz ich dzieci, 10 May 2021, <https://bit.ly/3vuhsTH>.

⁸⁹⁰ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, M. Szulecka, *From Reception to Integration of Asylum Seekers and Refugees in Poland*, 2023, available at: <http://bit.ly/3KiKMCy>, 203.

⁸⁹¹ Alexander Wolffhardt, Carmine Conte, Thomas Huddleston, *The European benchmark for refugee integration: A comparative analysis of the National Integration Evaluation Mechanism in 14 EU countries*, 2019, available at: <https://bit.ly/2SlshUh>, 124.

⁸⁹² Maryla Koss-Goryszewska ‘Służba zdrowia’ in A. Górka, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce* (Instytut Spraw Publicznych 2019), 43.

Research reports discrimination and unjust treatment of IP beneficiaries while accessing medical services.⁸⁹³

One of the gaps in medical services is the specialized treatment for victims of torture or traumatized refugees. There is a clear lack of qualified psychologists and therapists specializing in treating trauma, in particular in an intercultural context.⁸⁹⁴

In general, the integration of refugees has not been perceived as a holistic process by the government and because of that the refugees very often are doomed to poverty and cannot get out of a vicious circle of being dependent on social welfare.⁸⁹⁵ The findings of research on integration indicate that the case of Poland is characterized by a lack of an official integration strategy. Various legal acts address different facets of integration policy pertaining to beneficiaries of international protection, albeit to varying degrees and without a specific focus on the topic.⁸⁹⁶

⁸⁹³ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, M. Szulecka, *From Reception to Integration of Asylum Seekers and Refugees in Poland*, 2023, available at: <http://bit.ly/3KiKMCy>, 201.

⁸⁹⁴ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', *Multilevel Governance of Mass Migration in Europe and Beyond Project* (#770564, Horizon2020), available at: <http://bit.ly/3bfjTxL>, 136.

⁸⁹⁵ RESPOND Poland Policy Brief, Adult Refugees' Integration in Poland, 2021, <https://bit.ly/3vrD0QZ>.

⁸⁹⁶ K. Sobczak-Szelc, M. Pachocka, K. Pędziwiatr, J. Szałańska, 'Integration Policies, Practices and Responses. Poland – Country Report', *Multilevel Governance of Mass Migration in Europe and Beyond Project* (#770564, Horizon2020), available at: <http://bit.ly/3bfjTxL>, 10.

ANNEX I – Transposition of the CEAS in national legislation

Directives and other CEAS measures transposed into national legislation

Directive	Deadline for transposition	Date of transposition	Official title of corresponding act	Web Link
Directive 2011/95/EU Recast Qualification Directive	21 December 2013	30 August 2014	Ustawa z dnia 26 czerwca 2014 r. o zmianie ustawy o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej oraz niektórych innych ustaw	http://bit.ly/1dBH7hj (PL)
Directive 2013/32/EU Recast Asylum Procedures Directive	20 July 2015 Article 31(3)-(5) to be transposed by 20 July 2018	13 November 2015	Ustawa z dnia 10 września 2015 r. o zmianie ustawy o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej oraz niektórych innych ustaw	http://bit.ly/1SHT11B (PL)
Directive 2013/33/EU Recast Reception Conditions Directive	20 July 2015	13 November 2015	Ustawa z dnia 10 września 2015 r. o zmianie ustawy o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej oraz niektórych innych ustaw	http://bit.ly/1SHT11B (PL)
Regulation (EU) No 604/2013 Dublin III Regulation	Directly applicable 20 July 2013	13 November 2015	Ustawa z dnia 10 września 2015 r. o zmianie ustawy o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej oraz niektórych innych ustaw	http://bit.ly/1SHT11B (PL)