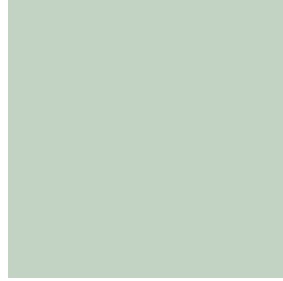


2023 UPDATE

POLAND



COUNTRY REPORT

Acknowledgements & Methodology

This report was written by Karolina Rusiłowicz (Asylum Procedure, Content of International Protection), in collaboration with Ewa Ostaszewska-Żuk, advocate at the Helsinki Foundation for Human Rights (HFHR) (Detention of Asylum Seekers, Content of International Protection), and Maja Łysienia (legal counsel – *radca prawny*) (Reception conditions, Content of International Protection, Temporary Protection), with the support of Helsinki Foundation for Human Rights and Association for Legal Intervention, and was edited by ECRE.

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 2023, unless otherwise stated.

The Asylum Information Database (AIDA)

The Asylum Information Database (AIDA) is managed by the European Council on Refugees and Exiles (ECRE). It aims to provide up-to date information which is accessible to researchers, advocates, legal practitioners and the general public through the dedicated website www.asylumineurope.org. It covers 23 countries, including 19 EU Member States (AT, BE, BG, CY, DE, ES, FR, GR, HR, HU, IE, IT, MT, NL, PL, PT, RO, SE, and SI) and 4 non-EU countries (Serbia, Switzerland, Türkiye, and the United Kingdom). 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.



This report is part of the Asylum Information Database (AIDA), partially funded by the European Union's Asylum, Migration and Integration Fund (AMIF). The contents of this report are the sole responsibility of ECRE and can in no way be taken to reflect the views of the European Commission.



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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
EUAA	European Union Agency for Asylum
GG	Grupa Granica
HFHR	Helsinki Foundation for Human Rights
IFA	Internal Flight Alternative
IPI	Individual Integration Programme
MSF	Médecins Sans Frontières
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
SIP	Stowarzyszenie Interwencji Prawnej (Legal Intervention Association)
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.

Applications and granting of protection status at first instance: figures for 2023

	Applicants in 2023 (1)	Pending at end 2023	Total decisions in 2023 (2)	Total in merit decisions	Total rejection	In merit rejection	Refugee status	Subsidiary protection	Humanitarian protection (3)
Total	9,513	3,766	6,511	5,697	1,880	1,066	602	4,029	n/a

Breakdown by countries of origin of the total numbers

Belarus	3,713	1,339	2,928	2,927	49	48	228	2,651	n/a
Ukraine	1,771	781	1,229	1,226	88	85	15	1,126	n/a
Russia	1,766	683	1,069	502	877	310	113	79	n/a
Türkiye	248	49	62	62	24	24	38	0	n/a
Egypt	194	34	136	119	133	116	3	0	n/a
Afghanistan	170	170	163	161	4	2	106	53	n/a
Tajikistan	167	80	134	90	115	71	1	18	n/a
India	152	75	63	60	63	60	0	0	n/a
Syria	135	21	25	23	5	3	16	4	n/a
Iraq	124	76	62	42	51	31	4	7	n/a

Source: Office for Foreigners.

(1) "Applicants in year" refers to the total number of applicants, not only to first-time applicants.

(2) Statistics on decisions cover the decisions taken throughout the year, regardless of whether they concern applications lodged that year or in previous years.

(3) Humanitarian protection is not granted within the international protection proceedings, but return proceedings. The first instance authority is the Border Guard and the Office for Foreigners is the second instance authority. The number of humanitarian protection statuses granted annually is generally low. In 2023, humanitarian protection was granted to 35 persons in the first instance and to 7 in appeal proceedings.

Applications and granting of protection status at first instance: rates for 2023

	Overall rejection rate	In merit rejection rate	Overall protection rate	In merit protection rate	Refugee rate	Subsidiary protection rate	Humanitarian protection rate
Total	28%	18%	71%	81%	10%	70%	n/a

Breakdown by countries of origin of the total numbers

Belarus	1.6%	1.6%	98%	98%	7.8%	90.5%	n/a
Ukraine	7.1%	6.9%	92.8%	93%	1.2%	91.8%	n/a
Russia	82%	61%	17.9%	38%	22.5%	15.7%	n/a
Türkiye	38%	38%	61.2%	61.2%	61.2%	0%	n/a
Egypt	97%	97.4%	2.2%	2.5%	2.5%	0%	n/a
Afghanistan	2.4%	1.2%	97.5%	98.7%	65.8%	33%	n/a
Tajikistan	85%	78.8%	14%	21.1%	1.1%	20%	n/a
India	100%	100%	0%	0%	0%	0%	n/a
Syria	20%	13%	80%	86.9%	69.5%	17.3%	n/a
Iraq	82%	73.8%	17.7%	26%	9.5%	16.6%	n/a

Source of the percentages: percentages calculated by the authors of the report based on overall statistics provided by the Office for Foreigners (see table above).

Gender/age breakdown of the total number of applicants: 2023

	Men	Women	Adults	Children	
				Accompanied	Unaccompanied
Number	5,860	3,653	7,138	2,083	292
Percentage	61%	38%	75%	21%	3%

Source: Office for Foreigners.

First instance and appeal decision rates: 2023

It should be noted that, during the same year, the first instance and appeal authorities handle different caseloads. Thus, the decisions below do not concern the same applicants.

	First instance		Appeal	
	Number	Percentage	Number	Percentage
Total number of decisions (persons affected by decisions)	6,511	100%	1,576	100%
Positive decisions	4,631	71%	23	1.5%
• <i>Refugee status</i>	602	9%	9	0.6%
• <i>Subsidiary protection</i>	4,029	61%	14	0.9%
• <i>Other¹</i>	n/a		134	8,5%
Negative decisions (total)	1,880	28%	1,362	86.4%

Source: First instance - Office for Foreigners, Appeal – Refugee Board.

¹ Decisions annulling the decisions of the Office for Foreigners and directing the case back to first instance proceedings.

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	Uniform text as of 16 June 2023 (PL)
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	Uniform text of the Act as of 21 March 2024 (PL)
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	Uniform text as of 16 January 2024 (PL) The law is applicable from 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 6 October 2023 on the amount of assistance for foreigners seeking international protection (Journal of Laws 2023 pos. 2154)	Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 6 października 2023 r. w sprawie wysokości pomocy dla cudzoziemców ubiegających się o udzielenie ochrony międzynarodowej (Dz.U. 2023 poz. 2154)	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)

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 2023**.

Asylum procedure

- ❖ **Key asylum statistics:** The number of persons applying for international protection in Poland in 2023 was 9,513. The three main nationalities of asylum applicants were Belarusian, Ukrainian and Russian. Belarusians had the highest overall recognition rate, with 98% positive decisions in 2023.
- ❖ **Access to the territory and to the procedure:** Access to Poland through its border with Belarus was still the main problem in 2023. Testimonies collected by civil society organisations for 2023 include reports on the use of verbal and physical violence by officers of the Polish Border Guard and other forces towards migrants seeking to access Polish territory. Two legal amendments restricting access to asylum for those who access the territory irregularly, introduced in response to the crisis at the Belarusian border in 2021 remain in force as of May 2024, despite these provisions having been questioned before domestic courts.
- ❖ **Case law on pushbacks:** Until the end of January 2024, the ECtHR communicated 11 cases concerning pushbacks at the Polish-Belarusian border.² They concern 23 applications and 84 third-country nationals (16 minors), mainly originating from Afghanistan (37 persons), Iraq (26) and Syria (16). The applicants invoke inter alia violations of Articles 3, 13 of the ECHR and Article 4 of the Protocol no. 4 to the ECHR, but also Article 2.³

Reception conditions

- ❖ **Access to reception conditions:** The humanitarian crisis at the Polish-Belarusian border that started in 2021 and continued in 2023 left many prospective asylum seekers without any or proper access to material reception conditions, including medical assistance. As of the end of 2023, at least 55 persons died on the Polish-Belarusian border, while many others suffered injuries and other health problems that were not sufficiently or at all treated.
- ❖ **Health care:** Despite criticism from civil society organisations regarding the quality of the services provided, the Office for Foreigners signed a new agreement with the current provider of medical services for asylum seekers. This led to the change of the rules concerning the working hours of medical personnel in the reception centres.
- ❖ **Education:** From 1 September 2024, schools can hire an intercultural assistant to support foreign pupils' contacts within the school environment and cooperation with their teachers and parents.
- ❖ **Special reception needs of vulnerable groups:** In June 2023, GRETA published its evaluation report concerning Poland (third round), indicating that more must be done to identify and support asylum-seeking victims of human trafficking.

Detention of asylum seekers

- ❖ **Detention of vulnerable applicants:** Children with families are still detained 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 are still in practice placed in detention centres despite the binding regulations prohibiting detention in these cases.

² SIP, Communication of the Association for Legal Intervention on the execution of the M.K and Others v. Poland judgment, 12 February 2024, available at: <https://bit.ly/4bqkMh>.

³ M. Łysienia, Pushbacki w Polsce w ocenie Europejskiego Trybunału Praw Człowieka, Laboratorium Migracji, 11 August 2023, available in Polish here: <https://bit.ly/3UxgD7o>.

- ❖ **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 of protection beneficiaries:** While Poland lacks an official integration strategy, some positive initiatives at the local level (e.g. in Warsaw and Gdansk) have been observed. In 2023, the *Programme of Integration of Immigrants in the Malopolska Region ('Open Malopolska')*, the first document of its kind, was officially adopted. The main goal of the programme is to strengthen the integration of immigrants in the Malopolska region. The programme was developed collaboratively, involving workshops with more than 200 representatives of government and local administrations, civil society organisations, immigrant communities, employers, educational and cultural institutions and academic and research communities. The implementation of the programme will be collaboratively evaluated every three years.
- ❖ **Long-term residence:** In 2023, the rules concerning language requirements to obtain long-term residence in the country were changed. There are now more possibilities to confirm knowing the Polish language. They are specified in the Ordinance of the Ministry of Internal Affairs and Administration of 31 May 2023, in force since 24 June 2023.

Temporary protection

The information given hereafter constitute a short summary of the Polish Report on Temporary Protection, for further information, see [Annex on Temporary Protection](#).

Temporary protection procedure

- ❖ **Extension of the temporary protection regime:** In May 2024, temporary protection for Ukrainian nationals and some of their family members was prolonged until 30 September 2025. It is valid until 4 March 2025 for other temporary protection beneficiaries.
- ❖ **Access to the territory and to temporary protection:** In 2023, over 13,000 decisions on a refusal of entry were issued at the Polish-Ukrainian border. Access to temporary protection was particularly hampered for some groups (e.g. stateless persons, Roma).
- ❖ **Registration:** Upon the entry into force of the Special Law Amendment of 15 May 2024, the registration for special temporary protection will be more difficult due to the unconditional travel document requirement and the obligation to register immediately upon arrival to Poland.
- ❖ **Unaccompanied children:** In 2023, 363 unaccompanied children from Ukrainian foster care were returned to Ukraine due to their guardians' decision. It was opposed by Polish and international human rights organisations and bodies, but not by the Polish government. In May 2024, rules concerning unaccompanied minors from Ukraine were significantly modified.

Content of temporary protection

- ❖ **Residence permits:** In 2023, children were granted some access to residence permits (Diaa.pl), however still not all minors enjoying temporary protection can obtain this document.
- ❖ **Freedom of movement:** Movement and mobility of temporary protection beneficiaries continued to be hampered mostly due to the rule that temporary protection is withdrawn upon a 30-day absence in Poland and the unfavourable practices of the Polish Border Guard. Many temporary

protection beneficiaries lost access to social benefits upon temporarily leaving Poland. Reinstatement of the benefits proved to be very difficult in practice.

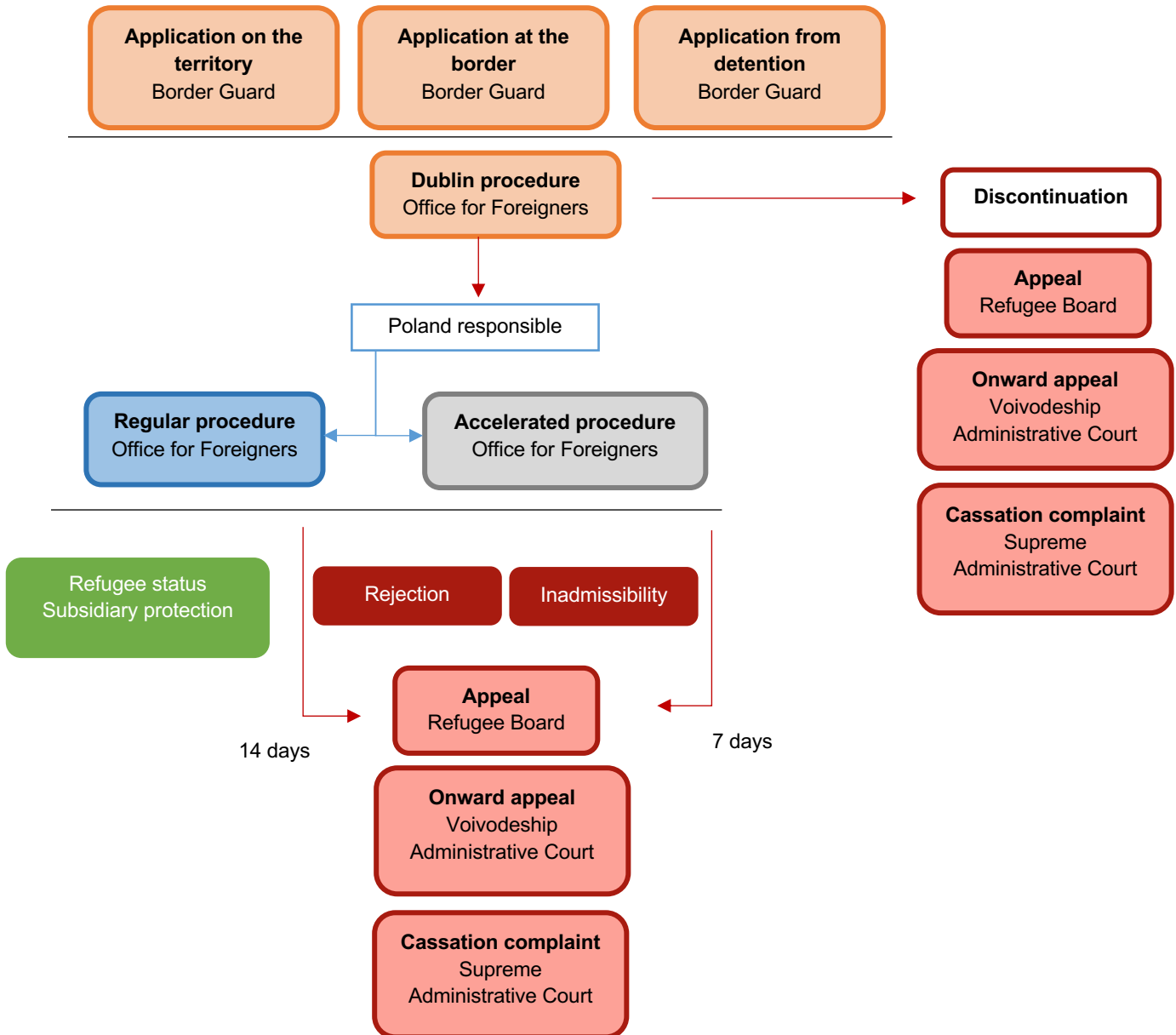
- ❖ **Housing:** Vague rules concerning accommodation of temporary protection beneficiaries led to differential treatment and uncertainty.

- ❖ **Access to socio-economic rights:** According to the study published in March 2024, employment of Ukrainian nationals who fled the Russian invasion positively affected the Polish economy. Many Ukrainian children continued their education remotely within the Ukrainian education system. Only 53% were enrolled into Polish schools in October 2023. Temporary protection beneficiaries struggled with accessing proper healthcare. The psychological assistance is particularly needed, however Ukrainian psychologists were not allowed to treat their compatriots from August 2023 to June 2024. The Special Law Amendment of 15 May 2024 introduced significant changes to socio-economic rights of temporary protection beneficiaries, including a shorter period to notify of their employment, repeal of the financial allowance for landlords and a one-time financial allowance for Ukrainian nationals upon their arrival to Poland, and making social welfare conditioned on the Polish school attendance.

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: ⁴ | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> No |
| ▪ Fast-track processing: ⁵ | <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: ⁶ | <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	<ul style="list-style-type: none"> ❖ Voivodeship Administrative Court in Warsaw ❖ Supreme Administrative Court 	<ul style="list-style-type: none"> ❖ Wojewódzki Sąd Administracyjny w Warszawie ❖ Naczelny Sąd Administracyjny
Subsequent application (admissibility)	Head of the Office for Foreigners	Szef Urzędu do Spraw Cudzoziemców

4. 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	39 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 2023, there were 39 caseworkers (in comparison to 50 in 2022) who were directly involved in 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 there is no further information regarding the topics. Specific training on interviewing vulnerable groups is

⁴ For applications likely to be well-founded or made by vulnerable applicants.

⁵ Accelerating the processing of specific caseloads as part of the regular procedure, without reducing procedural guarantees.

⁶ Entailing lower procedural safeguards, whether labelled as “accelerated procedure” in national law or not.

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 2023, the number of staff members handling cases of vulnerable applicants was 15.⁷

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.⁸ 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 however likely, 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 per year (see [Housing](#)). Asylum seekers can present a complaint to the OFF regarding 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.⁹ 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 Polish territory.

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.

⁷ Information provided by the Office for Foreigners, 16 February 2024.

⁸ Article 17 of the Law on Foreigners.

⁹ The Dublin procedure should be applied in every case: Article 36(1) Law on Protection.

Admissibility procedures are mostly 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'.¹⁰ 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 rarely applied (5 positive cases in 2023, 8 positive cases in 2022, 3 positive cases in 2021).

¹⁰ Article 90 and next of the Law on Protection.

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
3. If so, who is responsible for border monitoring? National authorities NGOs Other
4. If so, how often is border monitoring carried out? Regularly Rarely Never

In 2023, 1,511 persons applied for international protection at the Polish border crossing points placed at the EU external borders.¹¹ Excluding those who came by air or sea, there were 1,310 persons coming directly from the territory of Belarus, Russia or Ukraine.

Polish-Ukrainian border: The situation at the Polish-Ukrainian border crossing points has been subject to specific policy since the beginning of the conflict in Ukraine (see chapter on Temporary Protection).

Polish-Belarus border: The majority of applicants submitted an application for international protection at the Terespol border crossing (787 persons), the second biggest number was registered at Bobrowniki (95 persons), although cross-border movement through this post has been suspended since 10 February 2023. At the same time, the number of refusals of entry on the border crossings with Belarus was 2,425. As the situation on the Polish-Belarusian border showed in previous years, the actual number of persons seeking protection could have been much higher, since the problems with accessing the territory and the procedure on this border persisted for years, with a significant deterioration registered in 2021. Before 2021, persons applying at the border were mostly Russians with Chechen nationality. Since mid-2021 the number of asylum seekers and migrants seeking to enter Poland from Belarus significantly increased. Belarus facilitated irregular migration to the EU in response to the EU sanctions,¹² while Poland refused to provide access to asylum procedures to those in need. The Border Guards started carrying out pushbacks by immediately sending back to Belarus those who managed to cross the border. In this context, national law was amended to include rules that would facilitate collective expulsions (see below, National jurisprudence),¹³ which are still in force at the time of writing. Pushback practices continued throughout 2023, with the border being increasingly militarised.¹⁴

Testimonies collected by civil society organisations for 2023 include reports on the use of verbal and physical violence by the Border Guard officers towards migrants seeking to access Polish territory, such as use of firearms (the case of a Syrian national shot in the back is currently under investigation) and pepper-spray launchers.¹⁵ HFHR reported that at least 60 persons were found dead on both sides of the border since the beginning of the crisis in August 2021 (see also [Healthcare](#)).¹⁶ Missing persons and cases of family separation were also reported.

¹¹ Information provided by the Border Guard on 18 March 2024. According to statistics provided by the Border Guard, the overall number of persons applying for international protection in Poland was 8,875, rather than 9,513.

¹² Fundamental Rights Agency, Migration: Key fundamental rights concern, Quarterly Bulletin 3, available (EN) at: <https://bit.ly/3uEvu4G>.

¹³ For the detailed description of legislative amendments see AIDA Country Report on Poland - 2021 Update.

¹⁴ Protecting Rights at Borders (PRAB), *Pushbacks at Europe's borders – a continuously ignored crisis*, January 2024, report available at: <https://bit.ly/3vamuXG>, 7.

¹⁵ Protecting Rights at Borders (PRAB), *Pushbacks at Europe's borders – a continuously ignored crisis*, January 2024, report available at: <https://bit.ly/3vamuXG>, 9.

¹⁶ Information provided by HFHR, see: <https://bit.ly/3JObHGI>.

Médecins Sans Frontières (MSF) also confirmed that throughout 2023, their doctors treated injuries and harm caused to migrants who were pushed back at the Belarusian border.¹⁷ According to the MSF report, the 5.5m-high razor-wired, electronically surveyed wall at the Belarusian border, completed in 2022, increased the risk of serious, and potentially deadly, injuries for those seeking protection in the EU, such as fractures and deep cuts of those who climbed the wall or fell off it.¹⁸

In addition, MSF reported cases of people – including children and pregnant women – who were trapped in the area between the two borders ('death zone') for protracted periods, exposed to hunger, thirst and violence. These cases date back to 2021, but this area remains inaccessible to civil society and medical organisations, seriously restricting the possibilities to deliver care and assistance to those that try crossing the border through the woods.¹⁹ Moreover, humanitarian assistance provided by activists in the near-border area continued to be criminalised.²⁰ For instance, when the group of activists threw food and clothes to the migrants on the other side of the wall, they were punished by the Border Guard, but the court held they did not act contrary to the regional law.²¹

At the end of 2023, parliamentary elections were won by the opposition. Civil society organisations had hoped this would be followed by a change in the national border policy. However, no significant changes were observed so far.²² On 18 December 2023 and on 9 February 2024 the Commissioner for Human Rights asked the Ministry of Internal Affairs and Administration to repeal the law allowing summary removals at the borders, thus enabling those in need to apply for international protection.²³ The Ministry answered that the laws will be subject to amendments, following the analysis of jurisprudence in this regard and the amendments will allow for individual assessment of the migrant's situation – but further details regarding the content and timing for the amendments have been publicly discussed.

In January 2024, the District Prosecutor's Office in Warsaw formally started an investigation aimed at assessing whether the Border Guard had exceeded its powers in one of the early case of people apprehended at the border in August 2021 in Usnarz Górny, for which the ECtHR granted interim measure (complaint no 42120/21) that were not implemented by the Border Guards. The case was submitted to the prosecutor in October 2021.²⁴

International jurisprudence: Until the end of January 2024, the ECtHR communicated 11 cases concerning pushbacks at the Polish-Belarusian border to Poland.²⁵ They concern 23 applications and 84 third-country nationals (16 minors), mainly originating from Afghanistan (37 persons), Iraq (26) and Syria (16). The applicants invoke inter alia violations of Articles 3, 13 of the ECHR and Article 4 of the Protocol no. 4 to the ECHR, but also Article 2.²⁶

The ECtHR has previously delivered judgements against Poland, concerning collective expulsions at the Poland-Belarus border before the 2021 crisis. However, according to NGOs, these cases have not been properly executed. In March 2024 the Committee of Ministers again looked into the execution of the judgement M.K. and Others against Poland from 2020 (app. no 40503/17, 42902/17 and 43643/17), which concerned applicants at the Polish-Belarusian border that intended to submit their application for

¹⁷ Medecins Sans Frontieres, *Death, Despair and Destitution. The Human Costs of EU's Migration Policies*, February 2024, report available at: 29

¹⁸ Ibidem.

¹⁹ Ibidem.

²⁰ Information provided by the Ocalenie Foundation, see: <https://bit.ly/3UNo4ZH>.

²¹ HFHR, Helping is legal. Court acquits people who brought humanitarian aid over border wall, 20 October 2023, available at: <https://bit.ly/3QyPIHr>.

²² Fundacja Ocalenie, komunikat prasowy 9 stycznia 2024, 101 organizacji o 550 osób apeluje do premiera o wstrzymanie pushbackow, 9 January 2024, available at: <https://bit.ly/3UNDEEI>.

²³ Polish Ombudsman, Sprawa pushbacków: MSWiA informuje RPO o swych działaniach, available at: <https://bit.ly/3JMKhkj>.

²⁴ Fundacja Ocalenie, Prokuratura wszczyna śledztwo wobec SGI, 9 January 2024, available at: <https://bit.ly/3wrkCuj>.

²⁵ SIP, Communication of the Association for Legal Intervention on the execution of the M.K and Others v. Poland judgment, 12 February 2024, available at: <https://bit.ly/4bqkMh>.

²⁶ M. Łysienia, Pushbacki w Polsce w ocenie Europejskiego Trybunału Praw Człowieka, Laboratorium Migracji, 11 August 2023, available in Polish here: <https://bit.ly/3UxgD7o>.

international protection, but were repeatedly refused entry.²⁷ Since 2020, the ECtHR ruled in 4 more cases that Polish actions at the Belarusian border were unlawful.²⁸ In the opinion of the NGOs, the latter four judgements have not been satisfactorily implemented.²⁹ Poland did not ensure an effective access to procedure and protected those in need from collective expulsions. To the contrary, the situation on the Belarusian border deteriorated in the recent years, with the exact number of persons affected by the pushback policy implemented at the Polish-Belarusian border being unknown. The numbers of the decisions on a refusal of entry, decisions on an immediate removal and preventions of irregular entry, give only a partial picture. The UN Special Rapporteur on Human Rights of Migrants in April 2023 confirmed that “it is challenging to obtain accurate data on the full scope of pushback practices in Poland”.³⁰

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, but remain in force as of March 2024. The first one is Regulation on cross-border movement,³¹ authorizing the Border Guard to turn back third-country nationals 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)³² which allows the Border Guard to issue immediately enforceable ‘orders to leave the Republic of Poland’ with regards to third-country nationals apprehended after the irregular border crossing.

It is important to note that according to HFHR, the basis upon which the Border Guard decides which procedure is applied in a given case are unclear, as it is often not possible to understand whether it was considered the person fell under the regime of the Ordinance (Regulation) or the amended Law on Foreigners (Article 303b).³³ However, according to a report realised by ECRE, in 2022 the Regulation was more frequently used in cases of persons apprehended after an irregular border crossing.³⁴

According to HFHR, by July 2023, all judgments issued by the Voivodeship Courts on pushbacks are coherent and confirm that the way of returning migrants to Belarus by the Polish Border Guard used in most cases was unlawful, regardless of whether the return was based on the Regulation or on the Law on Foreigners.

In four of its judgments,³⁵ 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

²⁷ Information about the expert meeting, 29 March 2024, available at: <https://bit.ly/3wlXrla>.

²⁸ See A.B. and Others v. Poland (ECtHR, judgement of 30 June 2022, case of A.B and others v. Poland (application no. 42907/17), available at: <https://bit.ly/41AmLO3>) and A.I. and Others v. Poland (ECtHR, judgement of 30 June 2022, case of A.I. and others v. Poland (application no. 39028/17), available at: <https://bit.ly/3MTYMpj>) - 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.

²⁹ SIP, Sytuacja na granicy polsko-białoruskiej się pogorszyła, choć rząd twierdzi inaczej – interweniujemy w sprawie niewykonania przez Polskę wyroku ETPCz, 20 February 2024, available at: <https://bit.ly/3WtEojy>.

³⁰ Visit to Poland - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales, 21 April 2023, available (EN) at: <https://bit.ly/44qUi05>.

³¹ 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).

³² 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).

³³ 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>.

³⁴ 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>.

³⁵ 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>

obligations under the UN Refugee Convention, the EU asylum acquis, and the European Convention on Human Rights.

In another three cases,³⁶ the Provincial Administrative Court in Białystok held that the Border Guard's action of escorting foreigners to the border with Belarus under the provisions of the Regulation on cross-border movement 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 Regulation 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 some relevant 2023 judgements,³⁷ the Court in Białystok added that because there is no record of the Border Guards' actions based on the Regulation on cross-border movement in the official files, the only evidence available comes from testimonies of the persons concerned, and there is no reason to consider them not reliable.

Still, domestic case law appears to have had no influence on the practice of the relevant authorities.

Official statistics: Only since 5 July 2023 the Border Guard collects data concerning persons turned back to the border on the basis of the Regulation on cross-border movement.

According to these statistics, for the period between 05 July 2023 and 31 December 2023, 6,055 persons were returned to Belarus on the basis of the Regulation on cross-border movement. 8 persons were returned to Belarus on this basis in the period 01.01.2024 – 05.02.2024. In 2023, 1,295 persons were issued orders to leave Poland on the basis of the amended Law on Foreigners.

As for the number of decisions refusing entry issued at the Belarusian border, the number did not significantly change compared to the previous year, with 2,425 decisions issued in 2023 compared to 2,623 in 2022. Only 34 persons appealed against these decisions in 2023. As stated above, this information gives only partial picture on the number of persons seeking to access Poland in 2023. The actual number of persons in need of international protection who were present at the Belarusian border is unknown.

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.³⁸ The Border Guard confirmed that in 2023, UNHCR monitoring of border posts - especially on the Belarusian border - was constant.³⁹ On the other hand, one of the recommendations of the Special Rapporteur was to grant full access to the border area by Poland and Belarus to civil society organisations and independent monitoring mechanisms as “it is important to ensure that a strong and independent role is played by local civil society in both countries, as well as to allow international organisations to conduct in situ monitoring”.⁴⁰

³⁶ Judgments of the Provincial Administrative Court in Białystok no II SA/Bk 492/22, 493/22 and 494/22, all from 15 September 2022, see: *Ibidem*.

³⁷ Judgements of the Voivodeship Court in Białystok from 13 April 2023, II SA/Bk 145/23 and from 30 May 2023, II SA/Bk 244/23.

³⁸ 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.

³⁹ Information provided by the Border Guard, 18 March 2024.

⁴⁰ Visit to Poland - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales, 21 April 2023, available (EN) at: <https://bit.ly/44qUi05>.

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 2023.⁴⁵

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

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 HFHR, 21 March 2023.

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

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 Polish territory for persons with protection needs.

The Polish government announced on 1 June 2023 that it will not cooperate with the mandatory migrant relocation scheme proposed in the EU Pact on Migration and Asylum.⁴⁸ In April 2024, the new government expressed its support for this position.⁴⁹

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.

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.

⁴⁸ Euractiv, Poland opposes EU Commission's migrant relocation scheme, 1 June 2023, available at: <https://bit.ly/4bqvXTP>.

⁴⁹ Euractiv, Tusk vows to 'protect' Poland against EU migrant relocation, 11 April 2024, available at: <https://bit.ly/4bueRep>.

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 authority competent to receive it. If the application is lodged on 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.⁵⁰

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.⁵¹

The BG is entitled to inform an asylum seeker that it is impossible to lodge an application for international protection on the same day they present themselves to the BG unit. However, the BG must then set a date and place when the application will be accepted.⁵² 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.⁵³

According to the official data, 541 declarations for international protection (involving 574 persons) were submitted in 2023.⁵⁴ Unfortunately, the declarations are registered without any information on the legal grounds of the application.

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 2023:	3,766
4. Average length of the first instance procedure in 2023:	120 days

The Head of the Office for Foreigners is a state authority which is responsible 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 issue a decision on an asylum application is of 6 months.⁵⁵ This period can be prolonged to 15 months if: the case is of particular

⁵⁰ Article 28(2) Law on Protection.

⁵¹ Article 55(1) and (2) and Article 55a(2) Law on Protection.

⁵² Article 28(1) Law on Protection.

⁵³ Article 330(1)8 Law on Foreigners.

⁵⁴ Information provided by the Office for Foreigners, 16 February 2024 and by the Border Guards, 18 March 2023.

⁵⁵ Article 34(1) Law on Protection.

complexity; many asylum seekers are applying at the same time; the asylum seeker did not fulfil the obligation of presenting all the evidence and documents or attending the interview.⁵⁶ The case is considered of particular complexity when it requires several additional actions related to the credibility evaluation on the asylum claim (COI research, translation of documents submitted as evidence, approaching other authorities to establish identity, etc.).⁵⁷

In 2023, the authority decided to prolong the examination on the basis of the Law on Protection in 991 cases, while the number of decisions issued within the 6 months-time limit was 7,431 (9,134 in 2022), excluding accelerated procedures.⁵⁸ The Office stressed that there are no formal guidelines on what is considered as a complex and the decision in this regard is taken on an individual basis.⁵⁹

In 2023, the average processing time for a decision on the merits was 120 days (127 in 2022). The longest processing time took 964 days (in comparison to 967 days in 2022) and the shortest time was 3 days.⁶⁰

According to the law, if the decision is not issued within 6 months, the general provisions on the inaction of the administrative authority apply,⁶¹ 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 2023, there were 1,133 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](#)).⁶² 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 2023, there were 3,766 persons whose cases were pending before the Office for Foreigners, compared to 2,829 in 2022.⁶³ Bearing in mind that the number of applicants in 2023 and 2022 was similar (9,513 vs. 9,933), it can be observed that the 2023 backlog increased.

In 2023, NGOs intervened in cases where the applicants were deprived full access to the files of their case, as the Country of Origin information (COI) consulted was not included in the files.⁶⁴ Therefore, the applicant could not review this information and provide comments before the decision was issued, as is set in the administrative law.⁶⁵

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.⁶⁶

⁵⁶ Article 34(2) Law on Protection.

⁵⁷ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

⁵⁸ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

⁵⁹ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

⁶⁰ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

⁶¹ Articles 36-38 of the Code of Administrative Proceedings.

⁶² Article 35 Law on Protection.

⁶³ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

⁶⁴ SIP, Cudzoziemcy(-mki) w procedurze uchodźczej nie mają pełnego dostępu do akt w swojej sprawie – interweniujemy, 11 August 2023, available at: <https://bit.ly/4b8gpei>.

⁶⁵ Article 10(1) of the Code of Administrative Proceedings

⁶⁶ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.0656.3.2022/RW, 26 January 2022.

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).⁶⁷

The Office for Foreigners does not collect data on the number of interviews conducted.⁶⁸

1.3.1. 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.⁶⁹

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. The Office for Foreigners reported that in 2023 there was a problem with approaching an interpreter of the languages like: Kirundi, Malayalam, Turkmen, Berbere, Igbo, Dogri, Luganda.

1.3.2. 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,⁷⁰ but this is not implemented in practice as there are no logistical arrangements in place to enable its use (no cases in 2023).⁷¹ 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 to the interviewee in a language they understand, and they are allowed to make any necessary corrections before signing it.

⁶⁷ Article 44(1) and (2) Law on Protection.

⁶⁸ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

⁶⁹ Article 44(4)2 of the Law on Protection.

⁷⁰ Article 44(5) of the Law on Protection.

⁷¹ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

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. It is very unlikely to successfully question the interview in the subsequent steps of the procedure. According to the Office for Foreigners, protocols are mainly prepared on the computer, not handwritten, except for interviews conducted outside the Office for Foreigners where there is no possibility to print the copy of the interview (prisons, foster care facilities).⁷²

In 2023, the remote interviews were conducted via the Webex, Polycom and Jabber applications. There is a possibility to ensure the presence of a psychologist for interviews conducted remotely.⁷³

As a rule, the interviews are conducted individually. The Office confirmed however that there were cases in which mothers had their infant children with them during the interview. The officers conducting interviews are trained in the area of identification of vulnerable persons and when preparing for interview they consider the situation of a particular social group (e.g. women) in the country of origin (e.g. the risk of forced marriage).⁷⁴ However, NGOs have expressed numerous concerns regarding the functioning in practice of identification mechanisms (See [Identification of vulnerable applicants](#))

In 2023 there were no interviews of children according to the Office for Foreigners.⁷⁵

1.4. Appeal

Indicators: Regular Procedure: Appeal

1. 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

2. Average processing time for the appeal body to make a decision in 2023: 145 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 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.⁷⁶ 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 in these proceedings. The time limit set in law for the appeal procedure is 1 month.⁷⁷ The appeal has a suspensive effect.⁷⁸ Neither hearings nor decisions of the Refugee Board are made public.

In 2023, the average processing time for the Refugee Board to issue a decision in appeal proceedings was 145 days for the cases which finished in 2023. For cases submitted by Ukraine nationals it was 101 days. The longest processing time in 2023 was of 1,624 days (in 2022 it was 1,445 days) and the shortest 1 day. There were no cases in 2023 where the Refugee Board decided to hear the applicant or a witness

⁷² Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

⁷³ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

⁷⁴ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

⁷⁵ Letter from the Office for Foreigners to HFHR no BSZ.WKSI.069.1.2024/RW, 16 February 2024.

⁷⁶ Information provided by the Refugee Board, 27 August 2015.

⁷⁷ Article 35(3) Code of Administrative Proceedings.

⁷⁸ Article 130(1) and (2) Code of Administrative Proceedings.

(in 2022, there were 2 cases in which the applicant was heard and no cases of hearing a witness).⁷⁹ The Refugee Board reported a few cases in 2023 in which a written statement of the applicant submitted in their language was included in the case files and taken into account when taking a decision. NGOs point out that second instance proceedings conducted by this authority are often merely symbolic, and tend to unquestioningly uphold the conclusions made by the Head of the Office for Foreigners.⁸⁰

In 2023, appeals to the Refugee Board were submitted in the case of 1,588 applicants.⁸¹ In 2023, the Refugee Board issued 980 decisions, affecting 1,576 persons.⁸² As of 31 December 2023, there were 344 ongoing appeal cases before the Refugee Board.

Proceedings before the Refugee Board can have the following outcomes:

- ❖ annulling the first instance decision and directing the proceedings back to the first instance (cases of 134 applicants in 2023);
- ❖ overturning the decision and granting protection (cases of 23 applicants in 2023; 9 applicants were granted refugee status⁸³ and 14 subsidiary protection);
- ❖ upholding the decision of the first instance (1,325 applicants in 2023)⁸⁴;
- ❖ discontinuing the second instance proceedings (cases of 77 applicants in 2023).

The statistics clearly show that the chances of success of appeals are very low in practice.

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).⁸⁵ During these 30 days, their stay in Poland is considered legal.⁸⁶ 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.⁸⁷

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.⁸⁸ 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 the complaint.⁸⁹ 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.⁹⁰

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

⁷⁹ Information provided by the Refugee Board, 3 April 2024.

⁸⁰ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, available (EN) at: <https://bit.ly/3oaqWBQ>, page 13.

⁸¹ Information provided by the Office for Foreigners, 16 February 2024.

⁸² Information provided by the Refugee Board, 2 April 2024.

⁸³ According to the information provided by the Office for Foreigners there were 13 applicants who were granted refugee status by the Refugee Board.

⁸⁴ According to the information provided by the Office for Foreigners, the number of upheld decision was 1,362.

⁸⁵ Article 299(6)1b Law on Foreigners.

⁸⁶ Article 299(7) Law on Foreigners.

⁸⁷ Article 299(10) and (11) Law on Foreigners

⁸⁸ 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*).

⁸⁹ Article 61(3) of the Law on proceedings before administrative courts.

⁹⁰ Article 61(2)1 of the Law on the proceedings before administrative courts.

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 was taken to ensure that the return decision is not enforced until the end of the Court proceedings on international protection.⁹¹ 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.⁹² The Court refuses to grant suspensive effect also with regard to administrative decisions rejecting international protection, which means the applicant is not protected against return while their international protection decision is examined before the court for the first time.

Compliance with EU law of administrative court proceedings in Poland has come under question, 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.⁹³

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 issued a 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 has not been fully transposed. As a result, Article 46(3) of the Procedures Directive must be applied directly.⁹⁴ However, this ruling has not had significant impact on national practices.

According to the statistics of the Refugee Board, in 2023 there were 320 (compared to 307 in 2022) 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 41 cases in 2023 (44 cases in 2022), and in 175 cases in 2023 it dismissed the complaint (176 cases in 2022). In 39 cases in 2023 (comparing to 76 cases in 2022) cassation complaints to the Supreme Administrative Court were lodged by the applicants. The Supreme

⁹¹ 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.

⁹² 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.

⁹³ 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>.

⁹⁴ Supreme Administrative Court, II OSK 1753/21, judgement of 5 July 2022, summary by SIP available at: <https://bit.ly/41BzE10>.

Administrative Court annulled the judgment of the Voivodship Administrative Court as well as the administrative decision (solely of the Refugee Board or both instances) in 15 cases in 2023 (comparing to only 2 cases in 2022). In 68 cases in 2023 (72 cases in 2022), the cassation complaint was dismissed.⁹⁵

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:
 - refusal of refugee status or subsidiary protection
 - discontinuance of the procedure
 - refusal of reopening the procedure,
 - Dublin procedure,
 - inadmissibility of the application
 - revocation of protection status.⁹⁶

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.⁹⁷

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.⁹⁸ The list of legal counsellors and advocates who are available for 2023 (now for 2024) is publicly available together with their contact details and is divided by the cities where they provide services.⁹⁹

In 2023, 35 persons were assisted by legal counsellors or advocates and 241 by NGO lawyers. Considering the low number of individuals benefiting from the legal aid system out of the total of 1,588 appeals in 2023,¹⁰⁰ it appears that the system has little impact on the effective provision of free legal aid to applicants.

When drafting the law implementing the state legal aid system, the forecast of expenses for 7 years (2016-2022) were estimated for 13,473 million PLN, but the actual cost for this period was 1,473 million PLN. Bearing in mind the costs covered within this budget (legal fees, travel costs, cost of translation), the

⁹⁵ Information provided by the Refugee Board, 4 April 2023. This data may be not fully coherent because of delays in transferring information on judgements.

⁹⁶ Article 69c-69m Law on Protection.

⁹⁷ Article 53(1) and 54e(1) Law on Protection.

⁹⁸ The list of legal counsellors, advocates and NGOs is available on the OFF website at: <https://bit.ly/3oJiQl> .

⁹⁹ The Office for Foreigners, cost free legal aid, list of service providers, <https://bit.ly/3oJiQl> .

¹⁰⁰ Information provided by the Office for Foreigners, 3 February 2022.

system was drafted to provide services in approximately 2,303 cases per year, while in fact the services were provided in 276 cases on average per year.¹⁰¹

The Association for Legal Intervention (SIP), one of the few NGOs providing legal aid within this system, is also of the opinion that assisting only in the second instance is not sufficient. Evidence considered to decide on the case's merits is mostly gathered in the first instance proceeding – 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 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.¹⁰²

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 2023, the Voivodship Administrative Court in Warsaw (examining all the complaints against decisions regarding international protection) granted free legal assistance in all cases where such an assistance was requested.¹⁰³

For information on access to legal assistance in detention see the section on [Legal assistance in detention](#).

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, officially provided under AMIF, has been in practice suspended 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 border in accordance with the law and, when on the territory of Belarus, go to the camp where the complainants are staying'.¹⁰⁴

The reduction of the no-entry zone near the Polish-Belarusian border 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

¹⁰¹ Monitoring wdrażania ustawowej pomocy prawnej, Seminar "Access to State-Funded Legal Assistance in Asylum and Return Procedures in Poland", 14 December 2023, UNHCR Warsaw Office.

¹⁰² 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>.

¹⁰³ Information from the Voivodeship Administrative Court, 12 February 2024.

¹⁰⁴ Fundamental Rights Agency, Migration: Key fundamental rights concern, Quarterly Bulletin 3, available (EN) at: <https://bit.ly/3uEvu4G>.

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.¹⁰⁵

2. Dublin

2.1. General

Dublin statistics: 2023

Outgoing procedure			Incoming procedure		
	Requests	Transfers		Requests	Transfers
Total	252	92	Total	3,907	747
“take charge”	64	9	“take charge”	1,991	412
Germany	12	2	Germany	721	110
Lithuania	8	3	France	303	11
Spain	8	1	Norway	268	143
“take back”	188	83	“take back”	1,916	335
Germany	65	37	Germany	1138	245
France	21	12	France	358	18
Latvia	21	12	Belgium	161	20

Source: Office for Foreigners.

Outgoing Dublin requests by criterion: 2023		
Dublin III Regulation criterion	Requests sent	Requests accepted
“Take charge”: Articles 8-15:	64	34
Article 8 (minors)	0	0
Article 9 (family members granted protection)	2	1
Article 10 (family members pending determination)	1	2
Article 11 (family procedure)	2	1
Article 12 (visas and residence permits)	4	2
Article 13 (entry and/or remain)	49	27
Article 14 (visa free entry)	0	0
“Take charge”: Article 16	0	0
“Take charge” humanitarian clause: Article 17(2)	6	1
“Take back”: Article 18	188	118
Article 18 (1) (b)	162	59
Article 18 (1) (c)	0	20
Article 18 (1) (d)	26	39
Article 20(5)	0	0

Source: Office for Foreigners.

¹⁰⁵ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, available (EN) at: <https://bit.ly/3oaqWBQ>, 3.

Incoming Dublin requests by criterion: 2023		
Dublin III Regulation criterion	Requests received	Requests accepted
“Take charge”: Articles 8-15	1,991	1,691
Article 8 (minors)	1	0
Article 9 (family members granted protection)	2	1
Article 10 (family members pending determination)	8	0
Article 11 (family procedure)	39	2
Article 12 (visas and residence permits)	1,671	1,614
Article 13 (entry and/or remain)	231	71
Article 14 (visa free entry)	16	3
“Take charge”: Article 16	0	0
“Take charge” humanitarian clause: Article 17(2)	23	0
“Take back”: Articles 18 and 20(5)	1,916	1,681
Article 18 (1) (b)	1,866	471
Article 18 (1) (c)	8	984
Article 18 (1) (d)	40	226
Article 20(5)	2	0

Source: Office for Foreigners

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 weeks¹⁰⁶

The Head of the Office for Foreigners is responsible for Dublin procedures and the Border Guard is responsible for transfers.¹⁰⁷ 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.¹⁰⁸ The CJEU's ruling in *Mengesteab*,¹⁰⁹ which allows 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.

¹⁰⁶ Information provided by the Border Guard, 13 January 2023.

¹⁰⁷ Article 36(2) Law on Protection.

¹⁰⁸ The Dublin procedure should be applied in every case: Article 36(1) Law on Protection.

¹⁰⁹ CJEU, Case C-670/16, *Tsegezab Mengesteab v. Bundesrepublik Deutschland* (GC), Judgment of 26 July 2017.

2.2.1. Individualised guarantees

The Office for Foreigners responded, that in 2023 and 2022 only Greece was on the list of countries to be asked for individualised guarantees.¹¹⁰ 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.¹¹¹

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 2023, 7 persons were transferred from Poland under escort.¹¹²

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](#)).¹¹³ The Border Guard reported that in 2023, 109 persons were transferred from detention centres under the Dublin procedure. No information about the legal grounds for detention was provided in practice.¹¹⁴

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.¹¹⁵

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
<input type="checkbox"/> Judicial	<input checked="" type="checkbox"/> Administrative
<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No

❖ If yes, is it

❖ If yes, is it suspensive

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 2023 was 58 days (up from 32 days in 2022). In 2023, the Refugee Board issued 16 decisions (down from 33 in 2022) in Dublin proceedings (covering 18 persons), with only 2 decisions overturning the decision of the first instance authority.¹¹⁶

¹¹⁰ Information from the Office for Foreigners, 16 February 2024.

¹¹¹ Information provided by the Border Guard, 13 January 2023.

¹¹² Information provided by the Border Guard, 18 March 2024.

¹¹³ Article 398(1)(3a) Law on Foreigners.

¹¹⁴ Information provided by the Border Guard, 18 March 2024.

¹¹⁵ *Regulation on the application form (see table on legislation)*.

¹¹⁶ Information provided by the Refugee Board, 3 April 2024.

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?
 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 Dublin decision in practice?
 Yes With difficulty No
❖ Does free legal assistance cover:
 Representation in courts
 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.¹¹⁷

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? Yes No
If yes, to which country or countries? N/A

In 2023, requests were submitted to all countries except **Greece**.¹¹⁸

2.7. The situation of Dublin returnees

There are concerns about whether, under the provisions of the Polish law, 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.¹¹⁹ 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-month time limit.¹²⁰ 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.¹²¹ Usually, the second application, based on the same facts as the first one, would be declared inadmissible. 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.¹²²

¹¹⁷ Article 69e Law on Protection.

¹¹⁸ Information provided by the Office for Foreigners, 16 February 2024.

¹¹⁹ Article 40(6) Law on Protection.

¹²⁰ Information provided by the Refugee Board on 12 January 2023, DOB.WR.1510.1.2023.

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 Ibidem, page 7.

These findings are supported by the statistics presented by the Office for Foreigners. In 2023, the number of decisions discontinuing international protection applications was 2,297.¹²³ 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.¹²⁴ In 2023, the Office registered 185 requests to reopen the procedure, lodged within 9 months-time limit and issued 70 decisions considering the application admissible. There is no information on the number of requests lodged after the 9 months-time limit, but there were 1,473 persons who lodged subsequent applications in 2023. In the cases of 814 persons, the Office for Foreigners considered the application inadmissible.¹²⁵

In 2023, the Provincial Administrative Court in Warsaw specified that the fact that the migrant had left Poland did not relieve the authorities of their duties to consider whether there were grounds for granting a residence permit for humanitarian reasons in the return proceedings case, which might have relevant effects on the cases of Dublin returnees.¹²⁶

HFHR also reported cases in which the courts of other Member States decided not to transfer a person seeking protection to Poland under Dublin.¹²⁷ 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.¹²⁸ 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.¹²⁹ Also, the Court in the Hague in the judgement from 31 May 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.¹³⁰ However, in 2023 the latter Court generally upheld transfers to Poland, relying on interstate trust.¹³¹

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'.¹³²

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.¹³³ 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.

¹²³ Information provided by the Office for Foreigners, 16 February 2024.

¹²⁴ Article 40 Law on Protection.

¹²⁵ Information provided by the Office for Foreigners, 16 February 2024.

¹²⁶ SIP, Provincial Administrative Court (WSA): prerequisites for a humanitarian residence permit should be examined even if the migrant is outside Poland, 13 February 2024, available at: <https://bit.ly/3Ux7lbP>.

¹²⁷ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, available (EN) at: <https://bit.ly/3oaqWBQ>, page 6.

¹²⁸ DE: Regional Administrative Court [Verwaltungsgerichte], VG Minden, 12 L 599/22.A, available (in German) at: <https://bit.ly/3Nd8ovs>.

¹²⁹ HFHR, Input by civil society organisations to the EU Agency for Asylum Report 2023, 6.

¹³⁰ Ibid.

¹³¹ Judgement of the District Court of the Hague, NL23.34067, available at: [ECLI:NL:RBDHA:2023:19323](https://ecli.nl/RBDHA:2023:19323), [Rechtbank Den Haag, NL23.34067](https://rechtbankdenhaag.nl/2023/34067), [NL23.34072](https://rechtbankdenhaag.nl/2023/34072), [NL23.34075](https://rechtbankdenhaag.nl/2023/34075) en [NL23.34078](https://rechtbankdenhaag.nl/2023/34078) ([rechtspraak.nl](https://rechtbankdenhaag.nl)).

¹³² CJEU, C-392/22, reference for preliminary ruling lodged in 15 June 2022 by Rechtbank Den Haag, zittingsplaats's-Hertogenbosch, see: <https://bit.ly/41dgl0h>.

¹³³ 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, March 2021, available (in Polish) at: <https://bit.ly/3LnF3ef>.

The problem of identification of vulnerable persons and detention 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.¹³⁴ The Head of the Office for Foreigners is the authority responsible for deciding on admissibility. If an asylum application is deemed inadmissible, the Head of the Office for Foreigners issues a decision on the inadmissibility of the application.¹³⁵

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.¹³⁶

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.¹³⁷

The Office for Foreigners delivered the following inadmissibility decisions in 2023:

Inadmissibility decisions: 2023	
Ground for inadmissibility	Number of persons
Subsequent application	806
Application by dependent (spouse)	4
International protection in another Member State	3
First country of asylum	0
Total	814

Source: Office for Foreigners.

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 on inadmissibility are respected in practice.

¹³⁴ Article 38 Law on Protection.

¹³⁵ Article 38(4) Law on Protection.

¹³⁶ Article 38 Law on Protection.

¹³⁷ Article 38 Law on Protection.

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 2023. 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).

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.¹³⁸

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?
 Yes No
 - ❖ If yes, is it Judicial Administrative
 - ❖ If yes, is it suspensive Yes 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?
 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 an admissibility decision in practice?
 Yes With difficulty No
 - ❖ Does free legal assistance cover: Representation in courts 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.¹³⁹

¹³⁸ 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.

¹³⁹ Article 69e(1)d Law on Protection.

4. Border procedure (border and transit zones)

4.1. General (scope, time limits)

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 introduced 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.¹⁴⁰ The proposal was last updated in February 2019 and no further information has been made available since then.¹⁴¹

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 2023.

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:¹⁴²

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 2023, 40 applications were channelled in the accelerated procedure. These concerned the following grounds:

Applicants whose applications were channelled in the accelerated procedure: 2021-2023			
Grounds	2021	2022	2023
Reasons unrelated to grounds for international protection	85	40	23
Misleading authorities by withholding or presenting false information or documents	0	0	0
Inconsistent, contradictory, improbable or insufficient statements	15	23	16
Application solely to delay or frustrate return	4	7	1
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

¹⁴⁰ See critical opinion of the Law by the Ombudsman, available (PL) at: <https://bit.ly/44Lms5M>.

¹⁴¹ Draft law available at: <http://bit.ly/2lqboVu>.

¹⁴² Article 39 of the Law on Protection.

be issued.¹⁴³ There are no consequences if this time limit is not respected. In 2023, the average time for processing the applications in the accelerated procedure was 124 days.¹⁴⁴ In 2023, no decision in this procedure was issued within 30 days deadline.

SIP reported a case from 2021, where the applicant claimed from the beginning to be afraid of persecution due to 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.¹⁴⁵

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](#)).¹⁴⁶ There is no information on the number of cases in which the interview takes place – The Office for Foreigners does not collect data on this topic. The interview does not differ from the one in a regular procedure – it is in the same form and the same rules apply.¹⁴⁷

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
 - ❖ If yes, is it Judicial Administrative
 - ❖ If yes, is it suspensive Yes Some grounds No

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;¹⁴⁸
- (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.¹⁴⁹

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

¹⁴⁴ Information provided by the Office for Foreigners, 16 February 2024.

¹⁴⁵ 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>, 35.

¹⁴⁶ Article 44 Law on Protection.

¹⁴⁷ Information provided by the Office for Foreigners, 1 February 2017.

¹⁴⁸ Article 39(2)(3) Law on Protection.

¹⁴⁹ 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?
 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 decision in practice?
 Yes With difficulty No
❖ Does free legal assistance cover
 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.¹⁵⁰

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?
 Yes For certain categories No
❖ If for certain categories, specify which: See below
2. Does the law provide for an identification mechanism for unaccompanied children?
 Yes No

Applicants who need special treatment are defined in particular as:¹⁵¹

- ❖ 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. Identification is also conducted by the Border Guard for detained international protection applicants (see [Detention of vulnerable applicants](#)).

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 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.¹⁵²

¹⁵⁰ Article 69e Law on Protection.

¹⁵¹ Article 68(1) Law on Protection.

¹⁵² Article 68(3)-(6) Law on Protection.

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".¹⁵³ The Office for Foreigners has stated that as of 16 June 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 2019.¹⁵⁴

Overall, NGOs confirm that the system of identification envisaged in the law does not work in practice. Persons who experienced violence, especially torture survivors, are expected to present evidence they hardly can obtain. At the same time, the authorities seldomly decide to ask for an expert opinion as a part of the procedure.¹⁵⁵ In one of the cases reported by SIP, both authorities at first and second instance claimed that the tortures that the applicant experienced had not been proven by medical examination. The applicant concerned had been transferred to Poland on the basis of the Dublin Regulation and was in possession of an opinion from a psychologist from the sending country confirming that they had been subjected to torture, that was ignored. In another case the authorities also ignored the fact that the applicant had been victim of torture, despite the visible signs of violence on their body. When submitting a subsequent application, the applicant presented a confirmation from the psychiatrist that she suffered from PTSD and a confirmation of visible signs of violence on their body. This evidence was dismissed and the application was considered inadmissible for presenting no new circumstances or evidence.¹⁵⁶ In 2021, the Supreme Administrative Court ruled on the case of 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 thus the Court annulled the decisions.¹⁵⁷ 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.

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).¹⁵⁸ With regard to victims of trafficking in human beings, the Council of Europe Group of Experts on Action against Trafficking in Human Beings (GRETA) after its 2023 evaluation on Poland suggested enabling specialised NGOs to have regular access to facilities for asylum seekers and administrative detention centres for migrants (see also [Special reception needs of vulnerable groups](#)).¹⁵⁹

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, criticised by the Commissioner for Human Rights and NGOs (see [Detention of vulnerable applicants](#)).

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 2019.¹⁶⁰ According to a study for 2019, published in 2020, in which the Office for Foreigners representatives were interviewed, the largest

¹⁵³ Epidemiological filter was realised under the Swiss Polish Cooperation Programme, see: <https://bit.ly/3mMGiDd>.

¹⁵⁴ Information provided by the Office for Foreigners on 9 April 2020.

¹⁵⁵ SIP, Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 roku, available at: <https://bit.ly/3UOooaD>, 22.

¹⁵⁶ Ibidem.

¹⁵⁷ 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>, 29-30.

¹⁵⁸ 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>.

¹⁵⁹ GRETA, Evaluation Report Poland – Third Evaluation Round, 9 June 2023, available at: <https://bit.ly/3J3MRIt>.

¹⁶⁰ OHCHR, Committee against Torture concludes its consideration on the report of Poland, 24 July 2019, available at: <https://bit.ly/2Sgy10j>.

group are individuals who were subject to physical or psychological violence.¹⁶¹ 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.¹⁶² In 2022 and 2023, 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](#)).¹⁶³

1.2. Age assessment of unaccompanied children

Polish law provides for an identification mechanism for unaccompanied children.¹⁶⁴ 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.¹⁶⁵ Undertaking a medical examination is triggered by the authorities and shall be ensured by the Border Guards.¹⁶⁶ The law states that examination should be done in a manner respecting the dignity and using the least invasive technique.¹⁶⁷

The age assessment methods used in 2023 as reported by the Border Guard regional divisions were mostly X-ray of the wrist or dental examination.¹⁶⁸

In practice, applicants are subject to age assessment although there are no justified grounds to suspect that the applicant is not a child. There are reports that the Border Guards qualifies an unaccompanied minor whenever they do not have a passport.¹⁶⁹ Also, the Border Guard decides who will establish the age of the minor and mostly it is a single specialist who does not take into account all other aspects of child development (e.g. a dentist who focuses solely on dental examination or radiologist who performs solely X-ray examination of the wrist). HFHR reported that in some cases, the examination is not preceded by any interview with the person concerned.¹⁷⁰

National Prevention Mechanism also critically assessed the age assessment procedure in the Polish law, which is strictly medical and does not take into account psychological, developmental or environmental factors.¹⁷¹ The consequences of wrongful age assessment can amount to detention of a child applying for international protection, which otherwise would not be detained (see: Detention of children).

In 2023, SIP managed to successfully question before the court the outcome of age assessment of a Somali girl. The age assessment was based on X-ray of wrist, although she was in possession of a

¹⁶¹ 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.

¹⁶² Information provided by the Office for Foreigners on 9 April 2020.

¹⁶³ Information provided by the Office for Foreigners, 1 February 2018.

¹⁶⁴ Article 32 Law on Protection.

¹⁶⁵ Article 32(5) Law on Protection.

¹⁶⁶ Article 32 Law on Protection.

¹⁶⁷ Article 32(4) Law on Protection.

¹⁶⁸ E.g. letter of the Regional Division of the Border Guards in Krosno Odrzańskie, no NO-OI-II.0180.6.2024 from 23 February 2024.

¹⁶⁹ M.Poszytek, dr n. med. M. Sługocki, *Metody oceny wieku chronologicznego w postępowaniach z udziałem cudzoziemców*, HFHR, December 2023, available (PL) at: <https://bit.ly/3WpKSQo>, 7-8.

¹⁷⁰ Ibidem.

¹⁷¹ 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 in Polish at: <https://bit.ly/3URYZek>.

birth certificate from the country of origin confirming she was a minor. As a result of an incorrect age assessment, the girl had spent 4 months in detention – unlawfully.¹⁷² According to SIP, method of age assessment used in this case is outdated, not taking into account the differences in body build of people from other parts of the world.¹⁷³

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.¹⁷⁴

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.¹⁷⁵ 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.¹⁷⁶ In 2023, there were 15 such caseworkers.¹⁷⁷

In the past years, NGOs have been voicing their concerns regarding inadequate identification of vulnerable applicants, which leads to vulnerable individuals not receiving, receive sufficient support during the asylum procedure.

In its 2023 report, SIP provided information on the case of a female applicant who informed the authorities about being a victim of sexual violence and, despite having submitted a request for an interview with a presence of a psychologist, she was interviewed without a psychologist.¹⁷⁸ According to SIP, when it comes to victims of violence, such a procedural shortcoming can have a serious influence on the outcome of the 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

¹⁷² SIP, Mamy wpływ! Podsumowanie najważniejszych działań SIP w 2023 r., report summarising activities in 2023, <https://bit.ly/3wrxdO7>, 6.

¹⁷³ Ibidem.

¹⁷⁴ Article 69 Law on Protection.

¹⁷⁵ Article 44(4)(1) Law on Protection.

¹⁷⁶ Information provided by the Office for Foreigners, 16 February 2024.

¹⁷⁷ Information provided by the OF, 3 February 2023.

¹⁷⁸ https://interwencjaprawna.pl/wp-content/uploads/2021/01/SIP-w-dzialaniu_raport-2022.pdf, 21

how this may affect their statements.¹⁷⁹ SIP intervened in a case concerning 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.¹⁸⁰ 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.

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).¹⁸¹ In 2022 and 2023, 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.¹⁸² There is no medical examination to confirm past persecution or serious harm.

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.¹⁸³ This makes it difficult for individuals in need of protection to prove that they have been victims of torture in their country of origin. Third-country nationals frequently reach Poland presenting visible signs of torture. In such cases, ordering an examination by an expert could help acquire reliable evidence that a person experienced violence.¹⁸⁴

After conducting visits to all detention centres in Poland in 2022, the Commissioner for Human Rights concluded, that personnel in detention centres, including psychologists, is 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.¹⁸⁵

¹⁷⁹ 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>,

¹⁸⁰ 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>.

¹⁸¹ Article 63a Law on Protection.

¹⁸² Article 68 Law on Protection.

¹⁸³ 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>,

¹⁸⁴ Ibidem, page 20.

¹⁸⁵ 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, page 40, available (PL) at: <https://bit.ly/40cpYCt>.

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*).¹⁸⁶ 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.¹⁸⁷ 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.¹⁸⁸

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.¹⁸⁹ However, as the Border Guard confirms, due to the lack of funding, some NGOs withdrew their representatives from the list. The last update of the list took place in 2019. As of 2023, there were a total of 11 legal representatives on the list, for a total number of 217 unaccompanied children.¹⁹⁰ Their presence on that list is not binding, which means they are not obliged to become a representative.¹⁹¹ In 2023, the Border Guard indicated that, for every UAM, the competent court was asked to appoint a representative and the representative was chosen from the persons eligible by a respective court.¹⁹²

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 are not adapted to the needs of such children.¹⁹³

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.¹⁹⁴ 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.¹⁹⁵

¹⁸⁶ Article 61 Law on Protection.

¹⁸⁷ Article 66 Law on Protection.

¹⁸⁸ Article 65(3) and (4) Law on Protection.

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

¹⁹⁰ Information provided by the Border Guard on 4 March 2022, KG-OI-III.0180.7.2022/JL, still applicable for 2022.

¹⁹¹ Information provided by the Border Guard, 17 January 2023.

¹⁹² Information provided by the Border Guard, 18 March 2024.

¹⁹³ Fundamental Rights Agency, Migration: Key fundamental rights concerns, Bulletin 2, June 2021, available (EN) at: <https://bit.ly/3GENm1Q>, 27.

¹⁹⁴ 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/3s3hZXX>.

¹⁹⁵ 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/3s3hZXX>.

Problems concerning legal representations of unaccompanied minors are clearly presented in a case litigated by the Commissioner for Human Rights in 2022.¹⁹⁶ 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*.

In 2023, SIP started a project which envisages training for candidates for legal representative of UAM and for the personnel of foster care facilities. Within this project they trained 44 persons and 8 facilities in 2023. They also created a list of persons ready to act as a guardian in case there is an unaccompanied minor in need.¹⁹⁷

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).¹⁹⁸ In 2023 the Office for Foreigners answered that the court decides in which institution the child would be placed and did not provide further information.¹⁹⁹

If the asylum procedure terminates with a negative decision, the minor remains in the same foster family or institution. In April 2024 the Commissioner for the Rights of the Child met with the Border Guard and the main issue discussed during this meeting was foster care. There are not enough places in foster care institutions and there are very few foster families, ready to take care of foreign child.²⁰⁰

In 2023, there were 292 unaccompanied children (up from 217 in 2022) applying for international protection in Poland.²⁰¹

¹⁹⁶ 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>.

¹⁹⁷ SIP, Ruszamy z projektem wspierającym dzieci bez opieki w Polsce, 14 September 2023, available at: <https://bit.ly/4a2rwUA>.

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

¹⁹⁹ Information provided by the Office for Foreigners, 16 February 2024.

²⁰⁰ Commissioner for the Rights of the Child, Children need to be protected at the border, 19 April 2024, available at: <https://bit.ly/3Wq7nVr>.

²⁰¹ Information provided by the Office for Foreigners, 16 February 2024 and 3 February 2023.

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 2023, there were 1,473 subsequent applicants, mostly Russian nationals (770 persons).²⁰²

The first subsequent application has a suspensive effect on a return decision and a return order cannot be executed.²⁰³ If the application is considered inadmissible because the applicant did not present any new evidence or new circumstances of the case,²⁰⁴ it can be appealed within 14 days and until the Refugee Board takes 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.²⁰⁵ 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.²⁰⁶

In 2023, the Office for Foreigners issued 70 decisions deeming the application admissible, while the applications of 814 persons were dismissed as inadmissible.²⁰⁷

However, as SIP reports, asylum authorities 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.²⁰⁸ 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 reported 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 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.²⁰⁹

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.²¹⁰ The lawyers believe the subsequent applications are

²⁰² Information provided by the Office for Foreigners, 16 February 2024.

²⁰³ Article 330(2) and (3) Law on Foreigners.

²⁰⁴ Article 38(4) Law on Protection.

²⁰⁵ Article 38(5) Law on Protection.

²⁰⁶ Article 330(2)2 Law on Foreigners.

²⁰⁷ Information provided by the Office for Foreigners, 26 January 2022.

²⁰⁸ 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>.

²⁰⁹ 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>

²¹⁰ 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>.

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.²¹¹

Dublin returnees' applications submitted after the 9 months deadline will be considered a subsequent application and channelled in an admissibility procedure. An NGO reported of cases when the person's application was considered inadmissible even if it contained new evidence, such as a psychologist opinion from the organisation from another country confirming that the person suffered from tortures. Although in the first case for international protection being a torture victim was ignored by the authorities as not proven, the second application presenting the proof was found inadmissible.²¹²

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.²¹³

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 applied in practice in 2023 and 2022.²¹⁴

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:²¹⁵

²¹¹ Legal Intervention Association (SIP), Raport SIP w działaniu, Prawa cudzoziemców w Polsce w 2019 r. [Report SIP in action. Rights of foreigners in Poland in 2019], available (PL) at: <https://bit.ly/3tgXbhS>.

²¹² SIP, Raport z działalności Stowarzyszenia Interwencji Prawnej w 2022 roku, available at: <https://bit.ly/3UOooaD>, 22.

²¹³ Draft law available (in Polish) at: <http://bit.ly/2lqboVu>.

²¹⁴ Information provided by the Office for Foreigners, 16 February 2024 and 3 February 2023.

²¹⁵ Article 30(1)(5) Law on Protection.

- ❖ 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.²¹⁶

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.²¹⁷

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.²¹⁸

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.²¹⁹

Main challenges identified in 2023 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 [Annex on temporary protection](#).

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 ensure applicants can access UNHCR and NGOs, also at the border.²²⁰

In 2023, the main issue with regard to access to NGOs was access at the Belarusian border where the persons in need of assistance are subject to immediate pushbacks. There are numerous reports of persons returned to Belarus immediately after apprehension in the border zone, who did not have a possibility to apply for international protection and also are in need of medical and psychological assistance. On the situation at the border see [Access to the territory and pushbacks](#).

²¹⁶ Article 29(1) Law on Protection.

²¹⁷ Information provided by the Border Guard, 17 January 2023 KG-OI-VIII.0180.184.2022.BK.

²¹⁸ Office for Foreigners, information about the proceedings for international protection, available at: <https://bit.ly/442FoMD>.

²¹⁹ Information provided by the Border Guard, 17 January 2023 KG-OI-VIII.0180.184.2022.BK.

²²⁰ Article 29(2) Law on Protection.

In 2023 the UNHCR was not engaged in any projects with the Office for Foreigners, neither on monitoring of interviews, nor analysis of the quality of decision-making process).²²¹ However, UNHCR is involved in Poland in activities such as provision of services for people with special needs, legal assistance, mental health and psychosocial support, support in accessing jobs and accommodation.²²²

On access to NGOs and UNHCR from detention, see [Access to detention facilities](#).

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?²²³ Yes No
❖ If yes, specify which: n/a

Since 2021 until the end of 2023, Belarusians were the most numerous nationality group among asylum applicants in Poland. Poland registers around 72% of all applications for international protection submitted by Belarusians in Europe.²²⁴ At the same time applicants for international protection constitute only 6% of Belarusian nationals applying for all sorts of stay permit in Poland. In 2021-2024 (until the end of February 2024) Poland issued 8,836 decisions, out of which 8042 were positive (570 persons were granted refugee status and 7,472 - subsidiary protection). Very few cases are considered negative or discontinued, that is why the refugee rate in this period amounts to 99%.²²⁵

The second biggest group of asylum applicants in 2023 were Ukrainians, as a result of the Russian invasion that started on 24 February 2022 in Ukraine. On the different treatment of Ukrainian nationals and persons of other nationalities fleeing war, see more in the [Annex on temporary protection](#) to the report.

For many years prior to 2021, Russian citizens of Chechen origin were the main group applying for international in Poland. In 2023, almost half of Russian applicants submitted a subsequent application (770 persons out of 1,766 applicants in total), which explains the increase in the number of inadmissibility decisions issued in 2023, which was higher (567 persons) than that of those rejected (310 persons).

As of 31 December 2023, according to the Border Guard, no returns are carried out to the following countries: **Syria, Eritrea, Afghanistan, Yemen, Somalia, Palestine, Ethiopia, Sudan and Ukraine** (for more on returns of Ukrainian nationals, see [Annex on temporary protection](#)).²²⁶

²²¹ Information from the Office for Foreigners, 16 February 2024.

²²² Information from UNHCR website, 13 March 2024, <https://www.unhcr.org/pl/15027-japonia-unhcr.html>

²²³ Whether under the “safe country of origin” concept or otherwise.

²²⁴ Office for Foreigners, Report on the situation of Belarusians in Poland, 29 February 2024.

²²⁵ Ibidem.

²²⁶ Information provided by the Border Guard, 18 March 2024.

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.

As a rule, 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 2023, 9 reception centres operated in Poland, offering 1,479 places for asylum seekers. Two centres served as the first-reception centres (located in **Podkowa Leśna-Dębak** and **Biała Podlaska**) and seven functioned as accommodation centres (located in **Białystok**, **Czerwony Bór**, **Bezwola**, **Łuków**, **Kolonia-Horbów**, **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 2023. 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 allow access to material reception conditions for 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.²²⁷ 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 asylum procedure is discontinued (unless they declare another place of stay), as was the case in 389 cases in 2023 (427 in 2022).²²⁸ 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.²²⁹ 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.²³⁰

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.²³¹ In 2023, such an opportunity was provided to 574 third-country nationals (541 declarations, corresponding to 4,013 declarations registered in 2022, a significant decrease compared to recent years).²³² 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 for asylum again, but the latter try to avoid a gap in obtaining assistance by submitting

²²⁷ Article 70 Law on Protection.

²²⁸ 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 16 February 2024. 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).

²²⁹ Article 74(1)(1) Law on Protection.

²³⁰ Article 74(1a) Law on Protection.

²³¹ Article 28(1) Law on Protection.

²³² Information provided by the Border Guard Headquarters, 18 March 2024.

a subsequent application before the entitlement to material reception conditions resulting from a previous asylum procedure elapses.²³³

Reception conditions are provided:²³⁴

- (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.²³⁵

In principle, during the onward appeal procedure before the Voivodeship Administrative Court in Warsaw, asylum seekers are not entitled to material reception conditions.²³⁶ 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, “several cases” in 2023).²³⁷ In 2023, in 54 cases the Court decided to grant suspensive effect and in 70 cases refused to grant suspensive effect to a negative decision concerning international protection.²³⁸ In practice, asylum seekers deal with the problem of the lack of material reception conditions during 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.²³⁹ Thus, this assistance may be granted for a longer period than in other cases when a decision discontinuing the proceedings is issued (it is an exception from the 14-day rule mentioned above). Dublin returnees may also request additional assistance, covering 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.²⁴⁰ The request has to be submitted within a specific period (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.²⁴¹ 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 Voivodeship Administrative Court.²⁴² In 2023, 5 requests for additional assistance were submitted; all were accepted.²⁴³

Moreover, access to material reception conditions is to be continuously provided if a person concerned applies for assistance in the context of a voluntary return procedure to the Chief Commander of the Border Guard.²⁴⁴

Some applicants are not entitled to material reception conditions during the asylum procedure e.g. beneficiaries of subsidiary protection who presented a subsequent application to be recognised as

²³³ Information provided by SIP, 8 January 2020.

²³⁴ Article 74(1) Law on Protection; Article 299(6)(1)(b) Law on Foreigners.

²³⁵ It is connected with the obligation to depart from Poland within 30 days after receiving final negative decision on asylum.

²³⁶ 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.

²³⁷ 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 and 16 February 2024.

²³⁸ Information provided by the Voivodeship Administrative Court on 12 February 2024. However, with regard to some applications for granting suspending effect the outcome of the proceedings was not given.

²³⁹ Article 74(3)(2) Law on Protection, since 7 April 2023.

²⁴⁰ Article 75a(3) Law on Protection, since 7 April 2023.

²⁴¹ Article 75a(6-7) Law on Protection.

²⁴² Article 75a(9) Law on Protection, since 7 April 2023

²⁴³ Information from the Border Guard Headquarters, 18 March 2024.

²⁴⁴ Article 74(3)(1) Law on Protection, since 7 April 2023.

refugees;²⁴⁵ third-country nationals benefiting from humanitarian stay or tolerated stay; foreign nationals residing in Poland based on temporary stay permit, permanent stay permit or long-term residence permit; foreign nationals hosted in youth care facilities or detention centres or a pre-trial custody or detention for criminal purposes.²⁴⁶ Beneficiaries of subsidiary protection, third-country nationals residing 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. Foreign nationals 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.²⁴⁷

1.2. Obstacles to accessing reception

There are some practical obstacles reported in accessing material reception conditions. In 2023, the problems identified in recent years continued.²⁴⁸ 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.²⁴⁹ It should be organised by the Border Guard regarding released pregnant women, single parents, elderly and disabled people.²⁵⁰ The partial data that were made available show that the respective provision of the Law on Protection has been applied in practice concerning 69 third-country nationals in 2023, including 57 detained in Kętrzyn, 6 detained in Krosno Odrzańskie and 6 detained in Lesznowola.²⁵¹

Besides that, Border Guard declares that it buys train or bus tickets for released third-country nationals (Krosno Odrzańskie and Kętrzyn) or transports them to the closest train or bus station (Krosno Odrzańskie, Lesznowola), to a reception centre (Lesznowola – 74 persons) or to a shelter (Lesznowola – 24 persons, in cooperation with the Dialog Foundation). Tickets for trains or other means of communication were bought also by NGOs (SIP, Stowarzyszenie Podróżnych Ugościć – in Kętrzyn), NGOs offered also accommodation and food to released asylum seekers from the Krosno Odrzańskie detention centre. In Kętrzyn, released third-country nationals received additional material support, like clothes, shoes, backpacks, hygienic products, food, financed from the EU funds, Border Guard's budget and donations, e.g. from Caritas.²⁵² This data indicates a notable difference in the assistance provided to individuals released from detention centres. While some centres employ various methods to support released individuals, others offer no assistance.

In January 2023, the difficulties with the transport of persons released from detention were noticed by the Polish Human Rights Commissioner.²⁵³ He explained that third-country nationals do not know the Polish

²⁴⁵ 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.

²⁴⁶ Article 70(2) Law on Protection.

²⁴⁷ Article 5(2) Law of 12 March 2004 on social assistance.

²⁴⁸ For further information, see previous updates of AIDA, Country Report Poland, available at: <http://bit.ly/3ZAFxDz>.

²⁴⁹ Article 40(2)(2) of the Act on Protection.

²⁵⁰ Article 89cb Law on Protection. In law it has not been guaranteed that other vulnerable asylum seekers can 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.

²⁵¹ Information from different branches of the SG from February 2024.

²⁵² Ibid.

²⁵³ 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 at: <http://bit.ly/42SHQVz>.

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 asylum applicants during the day, but it is sometimes difficult due to the late delivery of the court's decision ordering the release.²⁵⁴

At the Polish-Belarusian border

The humanitarian crisis at the Polish-Belarusian border, that started in 2021 and continued in 2023 (see [Access to the territory and pushbacks](#)), left many prospective asylum seekers without access to material reception conditions.²⁵⁵ Third-country nationals 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 law²⁵⁶ – 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 assistance²⁵⁷ had to be provided by several local and state authorities (including the Commissioner for Human Rights),²⁵⁸ NGOs and private persons. However, its scope and effectiveness were greatly limited after the introduction of the state of emergency and similar measures, and the hampering and criminalisation of humanitarian assistance to migrants and asylum seekers in the country.

For example, in May 2023, a group of several dozen third-country nationals from Syria and Iraq (20-30 persons), including children (11, youngest of 1.5-2 years old), had been asking the Polish Border Guard for asylum while being blocked from entering Poland by the fence built at the border. Their applications were not accepted and they were not allowed to enter Poland. The Belarusian authorities did not allow them to go back to Belarus, so they were stuck “between” two countries for several days. The site was visited by the Commissioner for Human Rights’ representatives. The Border Guard stated that the group could not be admitted to Poland, but they were given some food and water by the Border Guard’ officers.²⁵⁹ NGOs were not allowed to approach the group and provide them humanitarian assistance, but the activists remained near the border (15m from the group) and tried to talk with them and play some games with the children.²⁶⁰

²⁵⁴ Ibid.

²⁵⁵ 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>.

²⁵⁶ HFHR, ‘Przypominamy: deklaracja zamiaru złożenia wniosku o ochronę międzynarodową jest wiążąca dla Straży Granicznej’, 29 May 2023, available in Polish at: <https://bit.ly/3vEGYZ2>.

²⁵⁷ For more, see Health care section below.

²⁵⁸ 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>.

²⁵⁹ Commissioner for Human Rights, ‘ZRPO Wojciech Brzozowski interweniuje ws. grupy cudzoziemców pod zaporą przy granicy polsko-białoruskiej. Odpowiedź SG’, May 2023, available in Polish at: <https://bit.ly/3J5etH6>.

²⁶⁰ M. Chrzczonowicz, ‘Na granicy polsko-białoruskiej 25 osób, w tym dzieci, przez drut prosi o azyl. Nie mogą się cofnąć’, *Oko.press*, 27 May 2023, available in Polish at: <https://bit.ly/4ajkVGm>; M. Chrzczonowicz, ‘Prosimy o bezpieczeństwo. 25 osób czeka za metalową barierą’, *Oko.press*, 30 May 2023, available in Polish at: <https://bit.ly/3IZTDJ4>.

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 2023 (in the original currency and in €):
 - ❖ Accommodated, incl. food PLN 50 / EUR 11
 - ❖ Private accommodation PLN 775 / EUR 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.

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.²⁶¹ Most of the requests are accepted.²⁶²

All of the abovementioned reception conditions are applied in practice. As of 31 December 2023, 656 (compared to 732 in 2022) asylum seekers were residing in the reception centres. 3,493 (compared to 2,963 in 2022) asylum seekers were receiving assistance outside the centres.²⁶³

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 / € 2.58) per day;
- ❖ Allowance for personal expenses of PLN 50 / € 11.72 per month;
- ❖ Permanent financial assistance of PLN 20 / € 4.69 per month for the purchase of hygienic articles or hygienic utilities;
- ❖ One-time financial assistance or coupons of PLN 140 / € 32.83 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.²⁶⁴ Among other examples, an asylum seeker who stayed in one of the reception centres with his pregnant wife provided the following account:

“We had a shared kitchen where you could cook for your own needs. However, I don't know where refugees can get money if they don't have a work permit. And for the first six months, while waiting for the

²⁶¹ Article 72(1) Law on Protection.

²⁶² In 2023, 4,420 requests for the social assistance granted outside a centre were registered of which 4,234 were accepted (96%). Information from the Office for Foreigners, 16 February 2024.

²⁶³ Information provided by the Office for Foreigners, 16 February 2024.

²⁶⁴ PFM, ‘Czas w ośrodku to czas wykluczenia’, 2023, available in Polish at: <https://bit.ly/3TZX1tK>; Fundacja EMIC, ‘Wielokulturowa Grupa – wyjątkowa miejscowość w naszym województwie’, 5 August 2023, available in Polish at: <https://bit.ly/3PICF5O>; 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.

decision, they definitely don't have it. Additionally, we only received about thirty zlotys a week for household items. Even though the centre was safe and we had a roof over our heads, we were not happy there.”²⁶⁵

Children attending schools are not eligible for the meals served in the reception centre. Instead, asylum-seeking parents receive a financial allowance of 11 PLN per day (330 PLN per month – 77.38 EUR) to buy food for their children, which proves insufficient to meet their needs.²⁶⁶

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 (€ 23.45). In 2023 this raise was applied in 268 cases.²⁶⁷

NGOs are constantly raising concerns regarding the fact that financial allowances for persons staying in the reception centres are inadequate to market situation and insufficient to satisfy the asylum seekers' basic needs. Despite that, the allowances remained very low for many years. Thus, in the centres, humanitarian assistance must be continuously provided by the NGOs and private persons.²⁶⁸

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:

Financial allowance for all costs of stay in Poland (outside reception centres)	
Family composition	Amount per day
Single adult	PLN 25 / € 5.86
Two family members	PLN 20 / € 4.69
Three family members	PLN 15 / € 3.52
Four or more family members	PLN 12.50 / € 2.93

The amount of financial allowance that asylum seekers receive is generally not sufficient to ensure an adequate standard of living in Poland.²⁶⁹ With only PLN 750-775 (around € 175-181) 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 third-country nationals, especially asylum seekers, and tend to increase rent or deposit in such situations.²⁷⁰ As the amount of financial allowance is insufficient for renting separate

²⁶⁵ 'Pamiętniki uchodźcze', Magazyn Kontakt 2023, available in Polish at: <https://bit.ly/43MWxKS>, 68 (author's translation).

²⁶⁶ Fundacja EMIC, 'Wielokulturowa Grupa – wyjątkowa miejscowość w naszym województwie', 5 August 2023, available in Polish at: <https://bit.ly/3PICF5O>.

²⁶⁷ Information provided by the Office for Foreigners, 16 February 2024.

²⁶⁸ Fundacja EMIC, 'Wielokulturowa Grupa – wyjątkowa miejscowość w naszym województwie', 5 August 2023, available in Polish at: <https://bit.ly/3PICF5O>.

²⁶⁹ PFM, 'Czas w ośrodku to czas wykluczenia', 2023, available in Polish at: <https://bit.ly/3TZX1tK>; 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.

²⁷⁰ '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.

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.²⁷¹ Financial allowance for families of four amounts to PLN 1,500 (around € 350) 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*.²⁷² 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.²⁷³

In February 2023, the Human Rights Commissioner once more called on the Ministry of Internal Affairs and Administration to increase allowances for asylum seekers and the Ministry declared that it plans changes in the respective law (however, without providing specific details on the anticipated changes).²⁷⁴ In line with these remarks, in October 2023 a new text of the Ordinance on Amount of Assistance for Asylum Seekers was adopted, but no change in the amounts of allowances was introduced. The main aim of the amendment was to adapt it to the new division of competences between the Office for Foreigners and the Border Guard in force since April 2023.

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 third-country nationals staying there. 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 (Articles 76 and 78 Law on Protection).

Although the abovementioned rules are contradictory to the CJEU's preliminary ruling in the case of *Haqbin*,²⁷⁵ they remain in force.²⁷⁶ However, since the judgment was issued, no asylum seeker has been deprived of reception conditions on this basis.²⁷⁷ In February 2024, the draft amendment of the Law on Protection that aims at implementing the *Haqbin* judgment in Poland was published. According to the draft, Articles 76 and 78 of the Law on Protection should be repealed. As of 10 June 2024, the draft law was not yet been adopted.²⁷⁸

²⁷¹ 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>, 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; Lukaszewicz, 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.

²⁷² CJEU, Case C-79/13 *Saciri*, Judgment of 27 February 2014.

²⁷³ 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>.

²⁷⁴ 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 at: <http://bit.ly/3ZqJYkl>.

²⁷⁵ CJEU (Grand Chamber), case C-233/18 *Haqbin*, Judgment of 12 November 2019.

²⁷⁶ 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>.

²⁷⁷ Information provided by the Office for Foreigners since 2020, most recently in February 2024.

²⁷⁸ Article 6 of the draft law of 8 May 2024, available in Polish [here](#).

Financial allowance can be reduced to half also in case of a refusal to undergo medical examinations or necessary sanitary treatment of asylum seekers themselves and their clothes (Article 81(3) Law on Protection). This rule was not applied in 2023.²⁷⁹

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/her return.²⁸⁰

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/her return.²⁸¹ Moreover, asylum seekers can leave the centre whenever they want, during the day, but they should be back before 11:00 p.m.²⁸² Asylum seekers may leave the reception centre for a couple of days upon earlier notification in the centre.²⁸³

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.²⁸⁴

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.²⁸⁵ 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. In 2023, out of 195 persons, 79 were allowed to move to another centre. According to the Office for Foreigners, the refusals were justified *inter alia* by the temporary impossibility to accommodate in the chosen reception centre or the asylum seeker's withdrawal of the application.²⁸⁶

Moving an asylum seeker to another centre without a direct request from the person involved is very rare. In 2023, one asylum seeker was required to move to another centre due to the fact that he had been violating the rules of the stay in the centre where he had been initially hosted.²⁸⁷

²⁷⁹ Information provided by the Office for Foreigners, 16 February 2024.

²⁸⁰ Article 77 Law on Protection.

²⁸¹ Article 77 Law on Protection.

²⁸² Para 12(3) of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

²⁸³ A. Garbolińska, 'Rodzaje ośrodków dla osób w procedurze uchodźczej w Polsce', 2022, available in Polish here: <https://bit.ly/3ziK8zR>.

²⁸⁴ Information provided by Office for Foreigners, 26 January 2021.

²⁸⁵ Article 82(1)(6) Law on Protection.

²⁸⁶ Information provided by the Office for Foreigners, 16 February 2024.

²⁸⁷ Information provided by the Office for Foreigners, 16 February 2024.

B. Housing

1. Types of accommodation

Indicators: Types of Accommodation

- | | |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------|
| 1. Number of reception centres: ²⁸⁸ | 9 |
| 2. Total number of places in the reception centres: | 1,479 |
| 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 2023, Poland had nine reception centres which altogether provided 1,479 places. As of 31 December 2023, 656 (compared to 732 in 2022) asylum seekers were residing in the centres. Another 3,493 (compared to 2,963 in 2022) asylum seekers were receiving assistance outside the centres.²⁸⁹

In 2023, the centres in **Podkowa Leśna-Dębak** and **Biała Podlaska** served as the first reception, where asylum seekers were directed after applying for asylum in order to register and carry out medical examinations. The remaining seven centres were accommodation centres (**Białystok**, **Czerwony Bór**, **Bezwola**, **Łuków**, **Grupa**, **Kolonia-Horbów** and **Linin**).²⁹⁰

In 2023, there was no problem of overcrowding in these centres. As of 31 December 2023, the highest occupancy rate was 71.67% in **Białystok** and the lowest was in **Biała Podlaska** – 17.73% (first reception) and **Czerwony Bór** – 37.22% (accommodation centre).²⁹¹

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 10 **temporary protection beneficiaries** benefited from this accommodation in 2023.²⁹²

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**, **Dębak**, **Grupa** and **Linin** are in the woods. These centres are therefore not easily accessible.

Spatial exclusion as a result of the present location of the centres is considered the main problem by some NGOs.²⁹³ Isolation of the centres limits contact with Polish citizens and Polish institutions, including NGOs. It affects the effectiveness of the integration process.²⁹⁴ 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

²⁸⁸ Both accommodation and for first arrivals.

²⁸⁹ Information provided by the Office for Foreigners, 3 February 2023 and 16 February 2024. 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>, 22-23.

²⁹⁰ Information provided by the Office for Foreigners, 16 February 2024.

²⁹¹ Information provided by the Office for Foreigners, 16 February 2024.

²⁹² Information provided by the Office for Foreigners, 16 February 2024. For more, see Temporary protection Annex: Housing.

²⁹³ 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.

²⁹⁴ PFM, 'Czas w ośrodku to czas wykluczenia', 2023, available in Polish at: <https://bit.ly/3TZX1tK> ; 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.

market.²⁹⁵ Moreover, the isolation of asylum seekers from society negatively affects their psychological state.²⁹⁶

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
4. Are single women and men accommodated separately? 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.²⁹⁷ 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 2023, the five centres managed by private contractors were monitored 19 times. Medical establishments within the centres were monitored too – once every quarter. Once a year, centres were also controlled by firefighters and health authorities.²⁹⁸

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

Asylum seekers can complain to the Office for Foreigners about the situation in the centres.²⁹⁹ In 2023, 18 requests and 19 complaints concerning reception centres were lodged in the Office for Foreigners. They mostly concerned living conditions and staff working in the centres. None of the complaints were considered justified.³⁰⁰

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 (in 2023, on average, 17 days in Biała Podlaska and 23 days in Podkowa Leśna-Dębak), asylum seekers stayed in accommodation centres, on average, from 42 days (Kolonja-Horbów) to 155 days (Łuków).³⁰¹

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 women, a kindergarten, a space to practice religion, a recreational 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

²⁹⁵ Lukaszewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', *International Migration* Vol. 55 (6) 2017, 61.

²⁹⁶ A. Garbolińska, 'Rodzaje ośrodków dla osób w procedurze uchodźczej w Polsce', 2022, available in Polish at: <https://bit.ly/3ziK8zR>.

²⁹⁷ Article 79(2) Law on Protection.

²⁹⁸ Information provided by the Office for Foreigners, 16 February 2024.

²⁹⁹ Para 17 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

³⁰⁰ Information provided by the Office for Foreigners, 16 February 2024.

³⁰¹ Information provided by the Office for Foreigners, 16 February 2024.

offer separate bathrooms and kitchens, only the common ones.³⁰² Persons travelling without their families may be accommodated with other single asylum seekers unknown to them.³⁰³

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.³⁰⁴

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.³⁰⁵ According to the NGOs, asylum seekers generally assess the conditions in the centres as rather low.³⁰⁶ For example, as recorded in 2023 by Fundacja EMIC, one Afghan national stated that:

“The first time we went to Biała Podlaska. Then we were transported to a centre in Bezwola in the Lublin Voivodeship. We spent 2 months there. This centre was in the middle of the forest. Everywhere was far away. There were no shops, no schools. One of my sisters had to go to school, but there was no facility for her in the area. The Grupa was better in this respect, but the conditions were still difficult overall. The biggest problem were bugs - bedbugs. Employees tried to fight them off, but they kept coming back. Sprays and medical supplies didn't work. It was the worst. Living conditions were not good either. We got two rooms for six people. There was a doctor, there was also a nurse. Food? Not very good.”³⁰⁷

Meanwhile, the Office for Foreigners' anonymous survey conducted in 2023 in 4 reception centres managed by the Office (259 out of 372 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 90.05%). Moreover, in 2023, the centres in Linin and Podkowa Leśna-Dębak, were renovated.³⁰⁸

Protests or hunger strikes occasionally happen in the reception centres. 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 will leave the centre. In 2023, however, no protests and hunger strikes took place in the reception centres.³⁰⁹

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 2023, there were 26 employees of the Office for Foreigners working directly with the asylum seekers in all the centres and other workers (in total, 60 persons).³¹⁰ Staff in the centre is working from Monday to Friday from 7:00 to 18:00. They are mainly

³⁰² 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.

³⁰³ A. Garbolińska, 'Rodzaje ośrodków dla osób w procedurze uchodźczej w Polsce', 2022, available in Polish here: <https://bit.ly/3ziK8zR>.

³⁰⁴ See Lukaszewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', *International Migration Vol. 55 (6)* 2017, 61.

³⁰⁵ 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.

³⁰⁶ 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.

³⁰⁷ Fundacja EMIC, 'Życie Afganek i Afgańczyków w Polsce po dwóch latach od ewakuacji nadal jest bardzo trudne', 15 September 2023, available in Polish here: <https://bit.ly/4aXdlf9>.

³⁰⁸ Information provided by the Office for Foreigners, 16 February 2024.

³⁰⁹ Information provided by the Office for Foreigners, 3 February 2023 and 16 February 2024.

³¹⁰ Information provided by the Office for Foreigners, 16 February 2024.

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.³¹¹ 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.³¹² See more in [Access to Education](#).

In 2023, 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 and psychological counselling.³¹³

Five centres have libraries and all centres have internet access.³¹⁴

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

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. 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

³¹¹ 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.

³¹² 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.

³¹³ Information provided by the Office for Foreigners, 16 February 2024.

³¹⁴ Information provided by the Office for Foreigners, 16 February 2024.

of independence and reliance on social assistance.³¹⁵ This waiting period is also criticised by asylum seekers themselves – especially taking into account low financial allowances they receive.³¹⁶

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 2023, 738 asylum seekers applied for the certificate. 567 persons received it, while the applications of 171 persons were denied.³²⁰

Access to employment is not limited to certain sectors but can be challenging 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, third-country nationals endure discrimination in employment, e.g. they are offered lower salaries than Polish nationals.

In 2023, access to the labour market of asylum seekers was supported by some NGOs operating in the reception centres.³²⁵

³¹⁵ Fundacja EMIC, 'Wielokulturowa Grupa – wyjątkowa miejscowość w naszym województwie', 5 August 2023, available in Polish at: <https://bit.ly/3PICF5O>.

³¹⁶ GRETA, 'Evaluation report: Poland', June 2023, available in English at: <https://bit.ly/3J3MRIt>, 21; PFM, 'Czas w ośrodku to czas wykluczenia', 2023, available in Polish at: <https://bit.ly/3TZX1tK>.

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 Information provided by the Office for Foreigners, 16 February 2024.

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. Górna, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce*, Instytut Spraw Publicznych 2019, 35; Fundacja EMIC, 'Życie Afganek i Afgańczyków w Polsce po dwóch latach od ewakuacji nadal jest bardzo trudne', 15 September 2023, available in Polish at: <https://bit.ly/4aXdlf9>.

³²⁴ The persisting problem with the recognition of non-EU education and qualifications was confirmed and criticised 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>.

³²⁵ Information provided by the Office for Foreigners, 16 February 2024.

2. Access to education

Indicators: Access to Education

1. Does the law provide for access to education for asylum-seeking children? Yes No
2. Are children able to access education in practice? Yes 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 2023, 755 asylum-seeking children attended 184 public schools and kindergartens in Poland. 192 among 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 months³²⁹ 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 2023, 320 children were supported in the reception centres in learning Polish by assisting them with homework and compensatory classes. Moreover, 274 children who were about to start school or already started it, took part in the classes preparing them to enter Polish education system.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 (the limitation of the duration of the support to 5 hours a week is criticised). Moreover, they are not adapted to the individual needs of foreign pupils.³³³ At the end of 2023, the Supreme Audit Office informed that in 27 out of 28 schools that it

³²⁶ Article 165 (1) and (2) of Law of 14 December 2016 on education. See also ECRI, 'ECRI Report on Poland (six monitoring cycle)', June 2023, available in English at: <https://bit.ly/4az8MgJ>, 22-23.

³²⁷ Information provided by the Office for Foreigners, 16 February 2024; Office for Foreigners, 'Nowy rok szkolny dla dzieci w procedurze uchodźczej', 4 September 2023, available in Polish at: <https://bit.ly/3vD1b18>.

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. See also Fundacja EMIC, 'Życie Afganek i Afgańczyków w Polsce po dwóch latach od ewakuacji nadal jest bardzo trudne', 15 September 2023, available in Polish at: <https://bit.ly/4aXdlf9>.

³²⁹ Article 165 (7) of Law of 14 December 2016 on education. See also ECRI, 'ECRI Report on Poland (six monitoring cycle)', June 2023, available in English at: <https://bit.ly/4az8MgJ>, 23.

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

³³¹ Article 165 (10) of Law of 14 December 2016 on education. See also ECRI, 'ECRI Report on Poland (six monitoring cycle)', June 2023, available in English at: <https://bit.ly/4az8MgJ>, 23.

³³² Information provided by the Office for Foreigners, 16 February 2024.

³³³ ECRI, 'ECRI Report on Poland (six monitoring cycle)', June 2023, available in English at: <https://bit.ly/4az8MgJ>, 23; J. Kościótek, '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>.

monitored additional Polish language classes were organised. However, it was discovered that nearly 45% of these classes were organised improperly.³³⁴

Furthermore, asylum-seeking children should receive the allowance 'Good start' (PLN 300 or around EUR 64) 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.³³⁵ 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.³³⁶ SIP continuously highlights that access to the 'Good start' allowance is still very difficult for asylum seekers.³³⁷

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 receiving sufficient support, like courses and materials.³³⁸ However, some training initiatives are taken up by local and governmental authorities as well as NGOs.³³⁹ For example, in the period of 2020-2023, over 4.000 teachers had some kind of training on working with foreign pupils.³⁴⁰

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 2023, 4 asylum-seeking children were attending a special school.³⁴¹

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.³⁴² 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.

³³⁴ Supreme Audit Office, 'Kształcenie dzieci cudzoziemców w polskich szkołach', 12 December 2023, available in Polish here: <https://www.nik.gov.pl/plik/id,28888,vp,31720.pdf>, 13.

³³⁵ 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.

³³⁶ 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>.

³³⁷ M. Sadowska, 'Świadczenie dobry start 300+' in SIP, *Prawa cudzoziemców w Polsce w 2020 roku. Raport*, 2021, available in Polish at: <https://bit.ly/3sGmlXS>, 78-80. See also SIP, *Prawa cudzoziemców w Polsce w 2021 roku. Raport*, 2022, available in Polish at: <https://bit.ly/3zmp637>, 24.

³³⁸ 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>.

³³⁹ 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.

³⁴⁰ Supreme Audit Office, 'Kształcenie dzieci cudzoziemców w polskich szkołach', 12 December 2023, available in Polish here: <https://www.nik.gov.pl/plik/id,28888,vp,31720.pdf>, 12.

³⁴¹ Information from the Office for Foreigners, 16 February 2024.

³⁴² 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.

Consequently, asylum-seeking and refugee children are disappearing from the Polish education system.³⁴³

In 2022-2023, the large influx of Ukrainian pupils additionally strained and challenged the Polish educational system (see [Temporary Protection, Access to education](#)).³⁴⁴

1.1. Preparatory classes

Since 2016, schools have a possibility to organise preparatory classes³⁴⁵ 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 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.³⁴⁶

Preparatory classes have been criticised 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.³⁴⁷ 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.³⁴⁸ 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.³⁴⁹ Meanwhile, the program of such classes³⁵⁰ should concentrate on learning Polish.³⁵⁰ 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.³⁵¹ Lastly, experts point out that

³⁴³ 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.

³⁴⁴ See e.g. SIP, Submission to ECRI, 15 June 2022, available in English here: <https://bit.ly/3zmaGAb>, 3-4.

³⁴⁵ 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*).

³⁴⁶ 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*).

³⁴⁷ 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.

³⁴⁸ 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>.

³⁴⁹ 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.

³⁵⁰ 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.

³⁵¹ 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.

there is no system which would prepare teachers to work in preparatory classes with third-country nationals.³⁵²

According to the Supreme Audit Office, in the school year 2020/2021 only 1% of foreign pupils attended preparatory classes, in 2021/2022 – 2% and in 2022/2023 – 7.15%.³⁵³

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

1.2. Kindergarten

In 2023, in most of the reception centres, some form of kindergarten was organised. This daycare is provided minimum 5 times a week for 5 hours a day. However, in Linin and Podkowa Leśna-Dębak no kindergarten services were provided from May to September due to a delay in the tender procedure for the service in these centres.³⁵⁴

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'.³⁵⁵

The only educational activities that adults are granted 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 allowance and do not live in a reception centre. In 2023, there was also a possibility to learn Polish online.³⁵⁶

The Polish language course's level is considered insufficient by some NGOs, even if the attendees generally evaluated such classes positively.³⁵⁷

The Office for Foreigners indicated that asylum seekers actively participate in Polish language lessons. In total, 830 adults attended such courses in 2023.³⁵⁸ 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.³⁵⁹ 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.³⁶⁰ Moreover, it has been reported that new attendees of the language lessons are accepted at all times during the year, which leads to a need to often repeat parts of the course that had already been covered, thereby impeding some students' progress.³⁶¹

³⁵² M. Koss-Goryszewska. 'Edukacja' in A. Górńska, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce*, Instytut Spraw Publicznych 2019, 51.

³⁵³ Supreme Audit Office, 'Kształcenie dzieci cudzoziemców w polskich szkołach', 12 December 2023, available in Polish here: <https://www.nik.gov.pl/plik/id,28888,vp,31720.pdf>, 10.

³⁵⁴ Information from the Office for Foreigners, 16 February 2024.

³⁵⁵ 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.

³⁵⁶ Information from the Office for Foreigners, 16 February 2024.

³⁵⁷ 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.

³⁵⁸ Information from the Office for Foreigners, 16 February 2024.

³⁵⁹ R. Baczyński-Sielaczek, 'Język polski w ośrodkach. Wyniki badania ewaluacyjnego', Instytut Spraw Publicznych 2016, 34.

³⁶⁰ 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>, 78-80.

³⁶¹ PFM, *Czas w ośrodku to czas wykluczenia*, 2023, available in Polish at: <https://bit.ly/3TZX1tK>.

Other courses in the centres, including vocational training and integration activities, are organised by NGOs.³⁶²

D. Health care

Indicators: Health Care

- | | | | |
|----|--------------------------------------------------------------------------------------------------------|-----------------------------------------|-------------------------------------------------------------------------|
| 1. | Is access to emergency healthcare for asylum seekers guaranteed in national legislation? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| 2. | Do asylum seekers have adequate access to health care in practice? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |
| 3. | Is specialised treatment for victims of torture or traumatised asylum seekers available in practice? | <input type="checkbox"/> Yes | <input checked="" type="checkbox"/> Limited <input type="checkbox"/> No |
| 4. | If material conditions are reduced or withdrawn, are asylum seekers still given access to health care? | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> Limited <input type="checkbox"/> No |

Access to health care for asylum seekers is guaranteed in law under the same conditions as for Polish nationals who have health insurance.³⁶³ 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.³⁶⁴ See section on [Reduction or withdrawal of material reception conditions](#).

Basic health care is organised in medical offices within each of the reception centres. The Office for Foreigners informed that in 2023, until the end of July, 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 for at least 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. On 1 August 2023, the rules on medical personnel's working hours changed. The GP in the centres have now 3 duty hours per 40 asylum seekers, while the nurse or a paramedic have 7 hours for the same number of possible patients. Both have 3 hours a week extra for every additional 40 asylum seekers. The GPs work at least two days a week and nurses/paramedics five days a week. Additionally, since August, the working hours of the medical point in Warsaw were extended by 2 hours per day.³⁶⁵

Health care for asylum seekers includes treatment for persons suffering from mental health problems. In 2023, until the end of July, 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. On 1 August 2023, the rules concerning working hours of psychologists changed. They have now 5 duty hours per 120 asylum seekers and 1 hour a week extra for every additional 50 asylum seekers.³⁶⁶ Asylum seekers can also be directed to a psychiatrist or a psychiatric hospital. In 2023, according to the Office for Foreigners, psychological support was provided by five NGOs.³⁶⁷

However, the psychological assistance in the reception centres is limited to basic consultations.³⁶⁸ Some asylum seekers consider psychologists working in the centre as not neutral enough as they are employed (indirectly) by the Office for Foreigners.³⁶⁹ Furthermore, according to some experts and many NGOs,

³⁶² Information from the Office for Foreigners, 3 February 2023.

³⁶³ Article 73(1) Law on Protection. In February 2024, a new law was proposed that, *inter alia*, facilitates access to medical assistance for new-borns whose parent(s) seek asylum in Poland.

³⁶⁴ Articles 76(1) and 70(1) Law on Protection.

³⁶⁵ Information provided by the Office for Foreigners, 16 February 2024.

³⁶⁶ Information provided by the Office for Foreigners, 16 February 2024.

³⁶⁷ Information provided by the Office for Foreigners, 16 February 2024.

³⁶⁸ 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.

³⁶⁹ 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.

specialised treatment for victims of torture or traumatised asylum seekers is not available in practice.³⁷⁰ 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.³⁷¹ Moreover, there are not enough specialised NGOs that provide psychological consultations and treatment to asylum seekers.³⁷²

According to the Office for Foreigners, victims of trafficking, gender-based violence and victims of torture or other forms of psychological and physical violence have access to needed assistance during the asylum proceedings. According to the agreement with Petra Medica (see below), it “is obligatory to make every effort to ensure that gynaecological consultations are provided by doctors of the gender preferred by the asylum seeker”.³⁷³

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. A new agreement has been signed on 31 July 2023, despite the long-standing criticism of the services provided by said contractor.³⁷⁴

In particular, the quality of medical assistance provided under this agreement has triggered wide criticism.³⁷⁵ In particular, access to specialised medical care worsened³⁷⁶ 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.³⁷⁷ The above-mentioned issues were also reported in 2023.

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.³⁷⁸ 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. According to the Office for Foreigners, the interpretation services in English, Russian, Ukrainian, Georgian, Persian, Arab, Chechen and Uzbek are available and no complaints have been registered in this regard.³⁷⁹ 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 has been reported that asylum seekers who are not speaking Polish, English or Russian face great difficulties with being provided with medical assistance (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.).³⁸⁰

³⁷⁰ 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.

³⁷¹ 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.

³⁷² 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>.

³⁷³ Information provided by the Office for Foreigners, 16 February 2024.

³⁷⁴ Information provided by the Office for Foreigners, 16 February 2024.

³⁷⁵ See e.g. HFHR, Input to the EUAA’s Asylum Report, February 2023, available in English here: <https://bit.ly/3VgXwOZ>, 9.

³⁷⁶ 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>, 70.

³⁷⁷ See AIDA, Country Report Poland – 2021 Update, May 2022, available at: <https://bit.ly/3ZydJ2R>.

³⁷⁸ M. Koss-Goryszewska, ‘Służba zdrowia’ in A. Górńska, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce*, Instytut Spraw Publicznych 2019, 43.

³⁷⁹ Information provided by the Office for Foreigners, 16 February 2024.

³⁸⁰ 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.

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 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 2023, 8 complaints about medical assistance were registered, all were considered unjustified.³⁸¹ They concerned *inter alia*:

- ❖ Long waiting times for the specialist consultation;
- ❖ Refusals of being admitted by the doctor (outside of the working hours);
- ❖ 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.³⁸²

Polish-Belarusian border

The humanitarian crisis at the Polish-Belarusian border that started in August 2021 and continued in 2023 left many prospective asylum seekers without access to material reception conditions, including medical assistance (see [Access to the territory and pushbacks](#)). For persons stranded at the border, suffering pushbacks to Belarus and violence from both Polish and Belarusian forces, medical assistance was mostly provided by NGOs, activists and independent doctors.³⁸³ The organisation Medecins Sans Frontieres (MSF), once more present at the Polish-Belarusian border since November 2022, during the one-year operation assisted 220 persons (until November 2023), with 10% needing a hospital treatment to save their lives. The organisation trained also some NGOs in providing first aid.³⁸⁴ In 2023, NGOs, doctors and rescue teams still could not reach third-country nationals staying in the closed near-border area (15m from the border) and behind the fence built at the border.³⁸⁵ MSF mentioned a case of a group of 30 people prevented from entering Poland by the wall in May 2023: 4 needed urgent medical assistance. However, the paramedics were not allowed to access the area.³⁸⁶

People 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 They are often pushed back to Belarus despite their poor medical condition. For example, in its report concerning October 2023, Grupa Granica mentioned a case of two women who were diagnosed with the first-degree hypothermia, who were pushed back to Belarus.³⁸⁸ Meanwhile, in May, Grupa Granica informed about a 31-year-old man who was pushed back despite having an injured leg. When he was apprehended by the Polish Border Guard, he received some medical assistance (the RTG was done, his leg was put into a medical splint),

³⁸¹ Information provided by the Office for Foreigners, 16 February 2024.

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.

³⁸³ See e.g. PRAB, 'Pushbacks at Europe's borders: a continuously ignored crisis', 31 January 2024, available in English at: <https://bit.ly/4akALAZ>, 12.

³⁸⁴ Medecins Sans Frontieres, 'Polska: Lekarze bez Granic prowadzą działania na granicy polsko-białoruskiej', 2023, available in Polish at: <https://bit.ly/4aGsBC6>.

³⁸⁵ ECRE, 'Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers', April 2023, available at: <https://bit.ly/41hGgdJ>, 14; PRAB, 'What we do in the shadows', May 2023, available in English at: <https://bit.ly/4cInDXp>, 9.

³⁸⁶ Medecins Sans Frontieres, 'Death, Despair and Destitution: The Human Costs of EU's Migration Policies', February 2024, available in English at: <https://bit.ly/4cDYIK3>, 29.

³⁸⁷ See e.g. Medecins Sans Frontieres, 'Polska: Lekarze bez Granic prowadzą działania na granicy polsko-białoruskiej', 2023, available in Polish at: <https://bit.ly/4aGsBC6>.

³⁸⁸ Grupa Granica, 'October 2023. Report from the Polish-Belarusian border', November 2023, available in English at: <https://bit.ly/4cHrMe3>, 8.

but then he was forced to go back to Belarus. Unable to move, he lay alone under the fence for a couple of days. Eventually, when the case became a topic of discussion in national media, the injured third-country national was admitted to Poland and taken to the hospital where he was operated.³⁸⁹ The pushbacks of the third-country national were deemed unlawful by the court in March 2024.³⁹⁰

The fence built at the Polish-Belarusian border did not stop third-country nationals from crossing this border but contributed greatly to their increased suffering.³⁹¹ 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 due to the construction of the fence) increased the risk of drownings, injuries, hypothermia and – in consequence – death.³⁹² In February 2024, MSF claimed that:

Between January and September 2023, almost 40% of the 187 patients treated by MSF had injuries that they had sustained while attempting to climb the wall or falling off it. Physical trauma included blunt injuries, sprains, deep cuts and suspected fractures. During this period, MSF responded to 14 cases of confirmed or suspected fractures, and almost half (46%) of the referrals to hospital were related to wounds and orthopaedic injuries, requiring urgent inpatient care and/or orthopaedic intervention.³⁹³

MSF also mentions mental health problems of third-country national they treated at the Polish-Belarusian border: “People stuck in the forest are often also in acute psychological distress by the time they are seen by the medical team. Between January and September 2023, MSF responded to 12 patients with psychological trauma, three of whom were referred to hospital due to their critical condition”.³⁹⁴

In practice, seeking assistance of the ambulance and referrals to hospitals are treated as a measure of last resort, since the Border Guard has been known to take third-country nationals from hospitals and push them back to Belarus.³⁹⁵ In April 2023, following his visit at the Polish-Belarusian border, the UN Special Rapporteur on Human Rights of Migrants remarked: “On both sides of the border, fear of being subjected to further acts of violence or other repercussions, such as pushbacks or detention, has prevented affected migrants from seeking medical and non-medical assistance to address their needs”.³⁹⁶

Actions of the Polish forces (the Border Guard, but also military) increase even further the risks for health and life of third-country nationals. In the PRAB report, “a case of a Syrian asylum seeker with symptoms of hypoglycaemia who was beaten and suffered fractures after he fainted for his insulin dependency” was mentioned.³⁹⁷ Despite his medical condition, he was pushed back to Belarus. As reported by Grupa Granica, in November 2023 “a Syrian citizen was shot in the back at the border. Fortunately, the bullet missed the spine and the vital organs. According to his account, he crossed the border with his group through a hole in the fence. They walked a few kilometres into Polish territory where they heard the Polish services. They broke off to flee, the man was shot in the back. (...) The man underwent more than six hours of surgery at the University Clinical Hospital in Białystok.”³⁹⁸ Moreover, in October 2023, Grupa

³⁸⁹ B. Rumieńczyk, ‘Uchodźca z granicy polsko-białoruskiej nareszcie w szpitalu. Ale co z innymi wyrzuconymi za mur?’, 8 May 2023, Oko.press, available in Polish at: <https://bit.ly/4cJ93z6>.

³⁹⁰ HFHR, ‘Mężczyzna ze złamaną nogą wywieziony na granicę w bagażniku - kolejny wyrok stwierdzający bezskuteczność pushbacków’, 11 March 2024, available in Polish at: <https://bit.ly/4dFRdgS>.

³⁹¹ SIP, EUAA Asylum Report CSO Input, 6 February 2023, available here: <http://bit.ly/3ZAnGga>; Mediciens Sans Frontieres, ‘Death, Despair and Destitution: The Human Costs of EU’s Migration Policies’, February 2024, available in English at: <https://bit.ly/4cDYIK3>, 29.

³⁹² PRAB, ‘Beaten, punished and pushed back’, January 2023, available in English at: <https://bit.ly/3kYwJc9>, 14.

³⁹³ Mediciens Sans Frontieres, ‘Death, Despair and Destitution: The Human Costs of EU’s Migration Policies’, February 2024, available in English at: <https://bit.ly/4cDYIK3>, 29.

³⁹⁴ Ibid., 43.

³⁹⁵ Grupa Granica, ‘October 2023. Report from the Polish-Belarusian border’, November 2023, available in English at: <https://bit.ly/4cHrMe3>, 11; PRAB, ‘Pushbacks at Europe’s borders: a continuously ignored crisis’, 31 January 2024, available in English at: <https://bit.ly/4akALAZ>, 12; Mediciens Sans Frontieres, ‘Death, Despair and Destitution: The Human Costs of EU’s Migration Policies’, February 2024, available in English here: <https://bit.ly/4cDYIK3>, 44.

³⁹⁶ ‘Visit to Poland - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales’, 21 April 2023, available here: <https://bit.ly/3QayrUP>.

³⁹⁷ PRAB, ‘What we do in the shadows’, May 2023, available in English here: <https://bit.ly/4cInDXp>, 7.

³⁹⁸ Grupa Granica, ‘November 2023. Report from the Polish-Belarusian border’, December 2023, available in English at: <https://bit.ly/4cFkEC>, 4.

Granica reported that the pepper spray throwers were used for the first time at the border towards a group of approx. 100 third-country nationals. This action put them at further health risk, as they could only remain in clothes that were soaked in toxic spray or undress, thus risking hypothermia.³⁹⁹

Between August 2021 and February 2024, at least 55 persons died at the border.⁴⁰⁰ For example, HFHR reported in November 2023 that 60 persons were found dead on both sides of the border since the beginning of the crisis in August 2021.⁴⁰¹ In January 2023, the body of a Yemeni doctor 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 critical condition. Their requests to send medical assistance were ignored and they were instead pushed back to Belarus. The Yemeni national was found only when another patrol was informed about his serious condition, but he was already dead by then.⁴⁰² In 2023, the death of an Ethiopian woman raised particular concerns as reportedly the 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 Human Rights Commissioner is investigating this case; however, the Border Guard and Police seem to be unwilling to cooperate.⁴⁰³

The death toll at the Polish-Belarusian border and the risks accompanying crossing this border were also noticed by the UN Special Rapporteur on Human Rights of Migrants:

80. Pushback practices at the border have cost migrants' lives. Continued reports of migrants stranded at the Polish-Belarusian border, especially new arrivals, confirm that harsh border governance measures and the construction of the physical fence have not deterred irregular border crossing attempts but have heightened the risks to migrants and increased their suffering. Serious concerns remain over the physical and mental integrity of all migrants stranded at the Polish-Belarusian border, particularly in view of incoming arrivals and the increasingly harsh circumstances after the installation of the fence, including during winter weather. These conditions may also amount to cruel, inhuman or degrading treatment and may result in violations of the rights to life and security of person.⁴⁰⁴

In an increasing number of judgments issued in 2022 and 2023 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 Voivodship 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 HFHR's lawyer. The court annulled the decision, explaining that the Border Guard did not rigorously assess the factual situation of the third-country national, 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.⁴⁰⁵ In May 2023, the Voivodship Administrative Court in Białystok issued a judgement concerning a pushback of a third-country national, who was seeking help for an Ethiopian woman in a worsening medical condition. He was apprehended by the Border Guard and pushed back to Belarus. The Border Guard did not search for the ill woman. Her body was found couple

³⁹⁹ Grupa Granica, 'October 2023. Report from the Polish-Belarusian border', November 2023, available in English at: <https://bit.ly/4cHrMe3>, 3.

⁴⁰⁰ The number provided by: Fundacja Ocalenie, 'Apel do Premiera', 9 January 2024, available in Polish at: <https://bit.ly/3xtfNAG>, 2; Amnesty International, 'Opinia przyjaciele sądu dotycząca wyroku w sprawie udzielania pomocy na granicy polsko-białoruskiej', 15 December 2023, available in Polish at: <https://bit.ly/3xwfpRW>; Medics Sans Frontieres, 'Death, Despair and Destitution: The Human Costs of EU's Migration Policies', February 2024, available in English here: <https://bit.ly/4cDYIK3>, 44.

⁴⁰¹ Information provided by HFHR, see: <https://bit.ly/3JObHGI>.

⁴⁰² Stowarzyszenie EGALA, 'Kolejna śmierć', 14 January 2023, available in Polish here: <http://bit.ly/3Kk0MnV>.

⁴⁰³ Human Rights Commissioner, 'Śmierć młodej kobiety z Etiopii w lesie na granicy. RPO prosi o wyjaśnienia Policję i Straż Graniczną', 14 February 2023, available at: <https://bit.ly/3TZI9LV> and 'Śmierć obywatelki Etiopii przy granicy. RPO pyta policję, co zrobiła w celu jej odnalezienia i pomocy. Kolejne pismo', 30 April 2023, available at: <https://bit.ly/3TGWSKs>.

⁴⁰⁴ 'Visit to Poland - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales', 21 April 2023, available at: <https://bit.ly/3QayrUP>.

⁴⁰⁵ 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>.

days later by the activists. The court considered the pushback to be illegal.⁴⁰⁶ Similarly, in the case decided in March 2024, the Voivodship Administrative Court in Białystok (case no. II SA/Bk 71/24) condemned pushbacks of an Ethiopian national who was firstly forced to go back to Belarus upon his release from the Polish hospital with a leg in a medical splint and a referral for a surgery. When he returned to Poland, he again was hospitalized and a cast was put on his leg. However, once more, he was pushed back to Belarus, despite his pleadings for asylum and inability to walk.⁴⁰⁷ A case concerning a pushback from a hospital was also communicated to the Polish government by the ECtHR in June 2022.⁴⁰⁸

E. Special reception needs of vulnerable groups

Indicators: Special Reception Needs

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

Yes Limited No

Persons who need special treatment are defined particularly as:⁴⁰⁹

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.⁴¹⁰

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.⁴¹¹ An asylum seeker who needs special treatment should be accommodated in the reception centre by taking into account his special needs.⁴¹²

⁴⁰⁶ Voivodship Administrative Court in Białystok (Wojewódzki Sąd Administracyjny w Białymstoku), judgment of 30 May 2023, no. II SA/Bk 244/23, described here: PRAB, 'Surprisingly surprised', September 2023, available in English at: <https://bit.ly/4aGt2MK>, 16; and here: HFHR, 'Prosił o pomoc dla umierającej towarzyski podróży, został wywieziony do Białorusi. Sąd uznał, że wywózka obywatela Etiopii była niezgodna z prawem', 3 July 2023, available in Polish at: <https://bit.ly/3xloGwl>.

⁴⁰⁷ HFHR, 'Mężczyzna ze złamaną nogą wywieziony na granicę w bagażniku - kolejny wyrok stwierdzający bezskuteczność pushbacków', 11 March 2024, available in Polish at: <https://bit.ly/4dFRdgS>.

⁴⁰⁸ Applications nos. 52405/21 and 53402/21 K.A. and M.A. and Others against Poland.

⁴⁰⁹ Article 68(1) Law on Protection.

⁴¹⁰ Article 68(2) Law on Protection.

⁴¹¹ Article 69a Law on Protection.

⁴¹² Para 5(3) Annex to the Regulation on rules of stay in the centre for asylum seekers.

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.⁴¹³ The same groups can benefit from this transport after the Dublin transfer and release from a detention centre.⁴¹⁴ By law, 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’.⁴¹⁵ In practice, the transport for persons with disabilities or elderly people, single parents and pregnant women is provided rarely (see [Criteria and restrictions to access reception conditions](#)).

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

In 2023, Special Rapporteur on the human rights of migrants, Felipe González Morales, published a report concerning his visit in Poland in 2022, when he visited several detention centres and the Biała Podlaska reception centre. The Rapporteur recommended using reception facilities rather than guarded centres in case of unaccompanied children, children with their families, pregnant women and persons with mental health conditions. He also suggested diverting financial resources used at the time for building new detention centres in Poland “to invest in alternative reception and care centres for children, including family inclusive centres”.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, since then, single women with children have been accommodated in **Podkowa Leśna-Dębak** reception centre (in a separate, renovated for that purpose, building within the complex, offering 138 places). 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 for 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. In

⁴¹³ Article 30(1)(8) Law on Protection.

⁴¹⁴ Article 40a and Article 89cb Law on Protection.

⁴¹⁵ 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.

⁴¹⁶ ‘Visit to Poland - Report of the Special Rapporteur on the human rights of migrants, Felipe González Morales’, published in April 2023, available in English at: <https://bit.ly/3QayrUP>, 17.

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, 3 February 2023 and 16 February 2024.

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>.

2023, approx. 20 cases of violence (any violence, not only gender-based) were discussed by the special teams. According to the Office for Foreigners, they concerned violations of the rules of stay in the reception centre, conflicts between adults living in the centres, domestic violence, peer violence and identification of the victims of human trafficking.⁴²¹

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'.⁴²² Moreover, it is 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.⁴²³ 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).⁴²⁴ Moreover, the Office for Foreigners states that the victims of domestic violence are separated from the perpetrators by accommodating them in the reception centre for women and children in Podkowa Leśna-Dębak.⁴²⁵

In 2023, as stated by the Office for Foreigners, 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.⁴²⁶ 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.⁴²⁷ 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 organised in Warsaw in Polish, Russian and English.⁴²⁸

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.⁴²⁹

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).⁴³⁰

⁴²¹ Information provided by the Office for Foreigners, 16 February 2024.

⁴²² 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.

⁴²³ 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.

⁴²⁴ Information provided by the Office for Foreigners, 26 January 2022.

⁴²⁵ Information provided by the Office for Foreigners, 16 February 2024.

⁴²⁶ Information provided by the Office for Foreigners, 3 February 2023.

⁴²⁷ Office for Foreigners, 'Telefon konsultacyjny dla cudzoziemców dotkniętych przemocą bądź będących świadkami przemocy', 21 March 2022, available in Polish here: <http://bit.ly/3TVA89a>.

⁴²⁸ Office for Foreigners, 'Grupy wsparcia dla rodziców cudzoziemskich w procedurze uchodźczej', 22 June 2022, available in Polish here: <http://bit.ly/42WJqWA>.

⁴²⁹ Article 62 (2) Law on Protection.

⁴³⁰ Article 66 Law on Protection.

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.⁴³¹

Currently, unaccompanied asylum-seeking children can be placed in youth care facilities throughout the country. In 2023 they were accommodated in:

- ❖ Warsaw (6 children placed),
- ❖ Lublin (3 children placed)
- ❖ Ełk (2 children placed),
- ❖ Białystok (2 children placed),
- ❖ Łódź (2 children placed),
- ❖ Dziekanów Leśny (2 children placed)
- ❖ Stoczek Łukowski (1 child placed)
- ❖ Gdańsk (1 child placed),
- ❖ Zambrów (1 child placed)
- ❖ Białowieża (2 children placed),
- ❖ Poznań (1 child placed)⁴³²

3. Persons with disabilities

Some reception centres are adapted to the needs of asylum seekers with disabilities. All the centres managed by the Office for Foreigners have a special entry for persons with disabilities 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. The Office for Foreigners declares that it provides transport for medical examinations and rehabilitation services as well as specialist equipment when needed.⁴³³ Despite that, the Human Rights Commissioner observed that the centre's preparedness to house people with disabilities was limited.⁴³⁴ In 2023, some adaptations to the needs of persons with disabilities were introduced in the centre in Podkowa Leśna-Dębak.⁴³⁵

4. Victims of trafficking

In 2023, GRETA published its evaluation report concerning Poland (third round).⁴³⁶ The report notices that there is still no National Referral Mechanism in Poland. In this context, GRETA states that it should be possible for "specialised NGOs to have regular access to facilities for asylum seekers". Asylum-seeking victims of human trafficking informed GRETA that they regretted not being allowed to work for first six months of the procedure and the low financial allowance they received.

Moreover, the report states, that: "Staff of the Office of Foreigners, which are responsible for determining asylum applications, follow the "Algorithm for dealing with a person who has applied for refugee status and is potentially a THB victim". If they suspect that a person is a victim of trafficking, they refer the case to the Border Guard for identification. The Office for Foreigners has appointed a THB co-ordinator. (...)"⁴³⁷ The Office for Foreigners added that, if the person concerned is (initially) confirmed to be a human trafficking victim he/she is offered with a possibility to live in an accommodation organised by La Strada Foundation.⁴³⁸

According to GRETA: "The number of victims of THB identified among persons seeking international protection remains low: two in 2017 (a woman from Cameroon and a woman from Mongolia, both victims of sexual exploitation; one in 2018 (a man from Vietnam), and two in 2020 (from Ukraine and Moldova). Nine persons were granted subsidiary protection in 2019 after being identified as presumed victims of

⁴³¹ Article 69b Law on Protection.

⁴³² Information provided by the Office for Foreigners, 16 February 2024.

⁴³³ Information from the Office for Foreigners, 26 January 2022.

⁴³⁴ ECRE, 'Seeking Refuge in Poland: A Fact-Finding Report on Access to Asylum and Reception Conditions for Asylum Seekers', April 2023, available at: <https://bit.ly/41hGgdJ>, 25.

⁴³⁵ Information provided by the Office for Foreigners, 16 February 2024.

⁴³⁶ GRETA, 'Evaluation report: Poland', June 2023, available in English at: <https://bit.ly/3J3MRit>, 6, 10, 21, 55, 56.

⁴³⁷ Ibid., 55.

⁴³⁸ Information provided by the Office for Foreigners, 16 February 2024.

THB (six unaccompanied girls and three women). In 2021, three presumed victims of THB were identified, two of whom absconded; the third one, a woman from Cameroon, was released from the immigration detention centre after identification as a victim of THB.⁴³⁹

With regard to the humanitarian crisis at the Polish-Belarusian border, the GRETA report states: “The Polish authorities reported that the Border Guard had identified three children (two Congolese girls and one Guinean boy) as victims of THB among the migrants who crossed the border from Belarus, and that they were referred to KCIK for assistance.”⁴⁴⁰ The report concludes in this respect:

“236. GRETA stresses that pushbacks impede the detection of victims of THB amongst irregular migrants and asylum seekers and raise grave concerns as regards Poland’s compliance with certain obligations of the Convention, including the positive obligations to identify victims of trafficking and to refer them to assistance, and to conduct a pre-removal risk assessment to ensure compliance with the obligation of non-refoulement.

237. While recognising the serious challenges faced in relation to the situation at the border with Belarus, GRETA urges the Polish authorities to review the legislation in order to ensure that pre-removal risk assessments prior to all forced removals from Poland fully assess the risks of trafficking or re-trafficking on return, in compliance with the obligation of non-refoulement. The Polish authorities should take full account of the UNHCR guidelines on the application of the Convention relating to refugee status to victims of trafficking, and their right to seek asylum, and to GRETA’s Guidance Note on the entitlement of victims of human trafficking, and persons at risk of being trafficked, to international protection.”⁴⁴¹

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.⁴⁴² According to the Border Guard, it is provided in 24 languages.⁴⁴³

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.⁴⁴⁴ 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.⁴⁴⁵ In the reception centres new-coming asylum seekers could also participate in a course on basic information about Poland and the asylum procedure. In 2023, the courses were organised in different languages, mostly English and Russian, for two age groups: children and adults. In the first-reception centres, they were organised once a week, in the accommodation centres – once for two weeks.⁴⁴⁶

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

⁴³⁹ GRETA, ‘Evaluation report: Poland’, June 2023, available in English at: <https://bit.ly/3J3MRIt>, 55.

⁴⁴⁰ Ibid., 10.

⁴⁴¹ Ibid., 52.

⁴⁴² Article 30(1)(5) Law on Protection.

⁴⁴³ Information provided by the Border Guard, 17 January 2023.

⁴⁴⁴ Para 3 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁴⁵ Para 18 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁴⁶ Information provided by the Office for Foreigners, 16 February 2024.

translated in practice into English, Russian, Arabic, Pashto, Dari, French, Georgian, Belarusian and Ukrainian.⁴⁴⁷

The Office for Foreigners claims that the centres' employees speak English and Russian and that they can use online translators to communicate with other asylum seekers.⁴⁴⁸ 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

Asylum seekers staying in the centres have the right to be visited by family members, legal advisers, UNHCR, NGOs, etc. in the rooms intended for that purpose.⁴⁴⁹

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 22:00.⁴⁵⁰

Each entry of a non-resident into the premises of the centre requires the permission of:⁴⁵¹

- ❖ 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.⁴⁵² No NGO was refused entry to the reception centres in 2023.⁴⁵³

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.⁴⁵⁴ 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.⁴⁵⁵

In 2023, 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.⁴⁵⁶

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

⁴⁴⁷ Information provided by the Office for Foreigners, 3 February 2023.

⁴⁴⁸ Information provided by the Office for Foreigners, 16 February 2024. See also Fundacja EMIC, 'Wielokulturowa Grupa – wyjątkowa miejscowość w naszym województwie', 5 August 2023, available in Polish at: <https://bit.ly/3PICF50>.

⁴⁴⁹ Paras 7-9 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁵⁰ Para 9 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁵¹ Para 7.2 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁵² Para 7.5 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁵³ Information provided by the Office for Foreigners, 16 February 2024.

⁴⁵⁴ Para 7.6 and 7.7 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁵⁵ Para 7.4 of the Annex to the Regulation on rules of stay in the centre for asylum seekers.

⁴⁵⁶ Information provided by the Office for Foreigners, 16 February 2024.

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 February 2023, the Office for Foreigners repeated its call for volunteers to work in reception centres.⁴⁵⁷ Eventually, 5 volunteers were engaged to work in the centre in Grupa in cooperation with the EMIC Foundation.⁴⁵⁸

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 2022-2023. However, as they were benefiting from temporary protection rather than international protection, their reception is described in more detail in the [annex on temporary protection](#). Ukrainian nationals and other 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.

⁴⁵⁷ Office for Foreigners, 'Wolontariat w ośrodkach dla cudzoziemców', 8 February 2023, available in Polish at: <http://bit.ly/3znXmLM>.

⁴⁵⁸ Information provided by the Office for Foreigners, 16 February 2024. See also Fundacja EMIC, 'Wielokulturowa Grupa – wyjątkowa miejscowość w naszym województwie', 5 August 2023, available in Polish at: <https://bit.ly/3PICF5O>.

Detention of Asylum Seekers

A. General

Indicators: General Information on Detention

1. Total number of asylum seekers detained in 2023:	No data available
2. Number of asylum seekers in detention at the end of 2023	
3. Number of detention centres:	6
4. Total capacity of detention centres:	791

In January 2023, 436 third country nationals were placed in detention centres.⁴⁵⁹ The duration of the detention period varied. Depending on the place of deprivation of liberty, it ranged from average 86 days⁴⁶⁰ to over 5 months.⁴⁶¹

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**. Asylum seekers and migrants in a deportation procedure are held in the same detention centres.

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 August 2021, new detention centres were opened in **Czerwony Bór**, **Biała Podlaska**⁴⁶² 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, the Border Guard closed the detention centre in **Czerwony Bór** and in **Wędrzyn**.⁴⁶³

As of April 2024, there are 6 detention centres and their profiles were once again changed in 2023.⁴⁶⁴ Since 2021 until 2023, the scope of persons hosted in the different detention centres was 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. Since 8 September 2023 families and unaccompanied children are placed only in Lesznowola.

Currently, families with children and unaccompanied children are placed only in **Lesznowola**. The **Kętrzyn** detention centre is only destined to single men (since 24 March 2023; from 5 June 2023 the part of detention centre for unaccompanied children was closed).⁴⁶⁵ The rest of the detention centres are only for single men.

⁴⁵⁹ Letter of Border Guards Headquarters, 25 January 2023.

⁴⁶⁰ Letter of Border Guards in Lesznowola, 9 February 2024.

⁴⁶¹ 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, Letter of Border Guard in Przemyśl, 5 March 2024.

⁴⁶² 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 reorganised it and opened there a detention centre.

⁴⁶³ BG Headquarters, 25 January 2023.

⁴⁶⁴ Information provided by HFHR March 2023.

⁴⁶⁵ Letter of Border Guards in Kętrzyn, 24 February 2024.

As at 31 December 2022, the capacity of detention centres was of 852 places (with the option for additional 300).⁴⁶⁶

Furthermore, the Border Guard placed migrants directly stopped at the Polish-Belarusian border in two of its stations (in **Dubicze Cerkiewne** and **Połowce**)⁴⁶⁷, 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, people were sleeping in one big room on the mattresses on the floor. Foreigners were accommodated there even for 3 – 4 weeks.⁴⁶⁸

It is not possible to estimate the length of the detention of the third country nationals who were detained in more than one centre, as detention centres have separate registration systems.

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 detainees in a dedicated room for third-country nationals or in a residential cell the area of which is not less than **2 sqm** per person:

- ❖ in the case of no vacancies in rooms for foreigners,
- ❖ for a specified period of time,
- ❖ not longer than 12 months.⁴⁶⁹ This regulation is still in force, although the CPT recommended to restore the minimum standard of living space to 4 m² per detainee in multiple-occupancy rooms in guarded centres for foreigners.⁴⁷⁰

This new regulation caused detention centres to become overcrowded, in particular the **Lesznówola**, **Przemyśl**, **Wędrzyn**, **Białystok** and **Kętrzyn**⁴⁷¹ detention centres in 2021 and in 2022.⁴⁷² 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 from 6 June 2022.⁴⁷³ In the case of detention centres for men, the area per person was reduced to a minimum, depending on the needs.⁴⁷⁴ In the **Lesznówola** detention centre, there was no less than 3 sqm per migrant, but from 21 October 2022 to 6 June 2023, there was no less than 2 sqm of surface area per migrant.⁴⁷⁵ In 2022 and 2023 in **Przemyśl**, surface area per migrant was no less than 2 sqm.⁴⁷⁶ In Biała Podlaska detention centre from 13 October 2023 to the end of November 2023 the space available for each detainee was not less

⁴⁶⁶ Polish Government response to the CPT report on its visit to Poland from 21 March to 1 April 2022, available at: <https://rm.coe.int/1680ae9553>.

⁴⁶⁷ KMPT ad hoc visit to the Border Guard post in Narewka, available in Polish at <https://bit.ly/3ELyE9Y>.

⁴⁶⁸ Information provided by SIP, April 2022, Sip w działaniu, Sip report for 2021, available in Polish: <https://bit.ly/3oAq2ia>.

⁴⁶⁹ Previously, the minimum was 4 sqm.

⁴⁷⁰ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February 2024, available in English at: <https://rm.coe.int/1680ae9529>.

⁴⁷¹ BG in Kętrzyn 9 March 2023: in the period between January and April there no less than 2 sqm meters of surface area per migrant was provided.

⁴⁷² Information provided by Border Guards Headquarters to SIP, February 2022 and 17 January 2023, Letter of Border Guard in Kętrzyn 8 February 2024, in Lesznówola , 9 February 2024., in Biała Podlaska 13 February 2024, in Przemyśl, 5 March 2024 ; 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>.

⁴⁷³ Annual Report on the Situation of Asylum in the European Union, 2022 available in English at: <https://bit.ly/3UIBuWE>, 179.

⁴⁷⁴ Information provided by Border Guard Headquarters, 17 January 2023, Kętrzyn 9 March 2023.

⁴⁷⁵ BG in Lesznówola, 7 March 2023 and 9 February 2024.

⁴⁷⁶ BG in Przemyśl, 10 March 2023, Letter of Border Guards in Przemyśl, 5 March 2024- from 1 January 2022 to 26 July 2022 and from 21 October 2023 up to 6 June 2023 and from 2 October till the end of 2023; Letter of Border Guards in Przemyśl, 5 March 2024.

than 3.5 sqm per person due to rise of the maximum capacity of a detention centre.⁴⁷⁷ In Kętrzyn the space was no less than 3 sqm per foreigner in the period between August and 20 December 2023.⁴⁷⁸

Third country nationals are obliged to pay for their stay in a detention centre calculated on the basis of an algorithm, set in the Act on Foreigners.

It is worth noting that asylum seekers from Syria, Yemen and Afghanistan who crossed the Polish-Belarusian border against the Polish regulations are still placed in detention even though Poland suspended deportations to these countries and high recognition rate in 2023.⁴⁷⁹ These nationalities are granted international protection or released by the Head of the Office for Foreigners from detention centre, despite the fact that in many cases, courts had prolonged their stay.⁴⁸⁰

According to NGOs, Border Guards at the border continue to ignore 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 and their detention was prelong for maximum period of 90 days.⁴⁸¹ Asylum applications were mostly registered in detention centres and with a delay as the Border Guards ignore the asylum claims.⁴⁸²

In 2022, a CPT delegation was informed by a number of foreign nationals (including children of all ages) that they were routinely strip searched in Biała Podlaska and Białystok centres; furthermore, these searches were, allegedly, carried out without respecting the requirement for a two-stage approach, set by law, in order to ensure that the detainee was never fully naked.⁴⁸³

Migrants and asylum seekers claim that there are no interpreters present on regular basis in detention centres (i.e. Arabic and Kurdish), which influences on their access to information being detained.⁴⁸⁴ What is more in some detention centres, the employees of a Border Guard support the translation between the foreigner and medical staff.⁴⁸⁵ In some cases other foreigners participate as an interpreter with a consent of the examined person.⁴⁸⁶ The CPT recommends that greater efforts be made in the guarded centres visited (and, if relevant, in all other detention facilities for foreigners) to improve staff's training in languages commonly spoken by detained foreign nationals and in inter-cultural communication.

⁴⁷⁷ Letter of Border Guards in Biała Podlaska, 13 February 2024.

⁴⁷⁸ Letter of Border Guards in Kętrzyn, 8 February 2024.

⁴⁷⁹ Information provided by Nomada Association and Halina Niec Legal Aid Centre, March 2023. Border Guards Headquarters information, access to public information to Halina Niec Legal Aid Centre 27.07.2023, KG-OI-VIII.0180.102.2023.KK.

⁴⁸⁰ Commissioner for Human Rights, 31 August 2022, available in Polish here: <https://bit.ly/3NHxena>.

⁴⁸¹ HFHR, 12 March 2024, Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, 105.

⁴⁸² Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, 105-107, 127. Inaction of the Border Guard Commander in accepting an application for international protection, *Bezczynność Komendanta SG w przyjmowaniu wniosku o ochronę międzynarodową*, Stowarzyszenie Interwencji Prawnej, 27 April 2023, available in Polish: <https://bit.ly/4b12GWn>.

⁴⁸³ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February 2024, available in English at: <https://rm.coe.int/1680ae9529>.

⁴⁸⁴ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH Krajowy Mechanizm Prewencji KMP.572.7.2023.KK Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej available in Polish at: <https://bit.ly/44tKu5y>.

⁴⁸⁵ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February 2024, available in English at: <https://rm.coe.int/1680ae9529>.

⁴⁸⁶ Bieszczadzki Border Guard Unit, 05 March 2024, Commissioner for Human Rights BIURO RZECZNIKA PRAW OBYWATELSKICH Krajowy Mechanizm Prewencji KMP.572.7.2023.KK Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej available in Polish at: <https://bit.ly/44tKu5y>.

Furthermore, the staff should be instructed to avoid using impersonal modes of communication and address foreign nationals by their names.⁴⁸⁷

The CPT also recommended to review the complaints' procedures at the guarded centres to make sure that detained foreigners are effectively enabled to send complaints in a confidential manner and are duly informed of this possibility. All written complaints should be recorded in a dedicated register.⁴⁸⁸

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.⁴⁸⁹ The special detention department was established in Office for Foreigners to prioritise the cases of detained asylum seekers.⁴⁹⁰ 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 with the – online - attendance of a psychologist and interpreter. According to NGOs, psychologists and interpreters are available on the premises of the Head of the Office for Foreigners⁴⁹¹ 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.⁴⁹²

In **Krosno Odrzańskie** in 2023, direct coercive measures were used against detained migrants: physical force - 7 times, handcuffs -20 times and an isolation room - 9 times, once: manual gas thrower.⁴⁹³ In **Przemyśl**, these measures (plus gas and helmet) were used 42 times and 16 times in **Kętrzyn**.⁴⁹⁴ In Białystok physical force - 8 times, handcuffs - 3 times and an isolation room - 8 times were used.⁴⁹⁵ In Biała Podlaska – 3 times -handcuffs, physical force and once isolation room.⁴⁹⁶

In April 2023, the death of a Syrian man in the detention centre of Przemyśl was reported. An investigation regarding the actions of the border guard and of medical services that came to the centre to provide assistance in ongoing.⁴⁹⁷

The Ombudsman's Office investigated the use of a direct coercive measure in the detention centre of Przemyśl - an electric stun gun against one of the centre's occupants. An investigation was launched in this case on the grounds of the border guard officer involved exceeding his authority,⁴⁹⁸ but the case was dismissed through a court decision which is now final.⁴⁹⁹ The person who was attacked by this officer was found guilty of making criminal threats to the Border Guard Officer in the canteen in 2022. The ruling has

⁴⁸⁷ The CPT recommends that greater efforts be made in the guarded centres visited (and, if relevant, in all other detention facilities for foreigners) to improve staff's training in languages commonly spoken by detained foreign nationals and in inter-cultural communication. Furthermore, the staff should be instructed to cease impersonal modes of communication and address foreign nationals by their names.

⁴⁸⁸ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February 2024, available in English at: <https://rm.coe.int/1680ae9529>.

⁴⁸⁹ Information provided by the Office for Foreigners, 3 February 2023.

⁴⁹⁰ Information provided by the Head of the Office for Foreigners, 2024.

⁴⁹¹ Information provided by Ocalenie Foundation, 12 March 2024.

⁴⁹² Information provided by Rule of Law Institute, 20 January 2023.

⁴⁹³ Information provided by Krosno Odrzańskie, 23 February 2024.

⁴⁹⁴ Information provided by Border Guards in Kętrzyn 2024.

⁴⁹⁵ Letter of Border Guard in Białystok, 12 February 2024.

⁴⁹⁶ Letter of Border Guards in Biała Podlaska, 13 February 2024.

⁴⁹⁷ Polish Press Agency, PAP, 26 January 2024, Investigation into the death of 28-year-old Syrian in a guarded centre for foreigners. Prosecution seeks medical experts, available in Polish: <https://bit.ly/4a9Ozgj>.

⁴⁹⁸ "Unjustified use of a stun gun by a Border Guard officer against a foreigner. Ombudsman requests investigation", March 2023, available in Polish at: <https://bit.ly/3pf5vjT>.

⁴⁹⁹ Commissioner for Human Rights, The court dismissed the RPO's complaint against the discontinuation of the investigation into the unjustified use of a stun gun by a Border Guard officer against a foreigner. Available in Polish at: <https://bit.ly/3QszDCZ>.

not been appealed and has become final. The Polish Ombudsman filed a cassation appeal to the Supreme Court in that case.⁵⁰⁰ In September 2023, detainees organised some protests in Przemyśl.

In 2023, the National Prevention Mechanism (NPM) noticed improper documentation of the use of direct coercive measures in detention centre of Przemyśl, both in terms of the application of the direct coercive measure itself, as well as the reasons, circumstances and effects of its use. NMP also recommended to remind officers of the obligation to provide first medical aid, medical consultation to each person subject to a isolation, immediately after being placed in the isolation room, and then at least once during each subsequent 24-hour period and medical consultation to a person who was exposed to pepper gas, regardless of the officer's assessment of the health condition of that person.⁵⁰¹

There were several cases of a detention of unaccompanied children who were consider as an adult, following the age assessment. In two cases, the courts released them, rising doubts about the procedure followed. The court underlined that the medical examination conducted, as a result of which child was recognised as an adult, did not allow for a clear determination of the age as it did not contain information on the margin of permissible error.⁵⁰²

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:⁵⁰³

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.

⁵⁰⁰ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, "Guinean national sentenced after incident in Guarded Centre for Foreigners. The Supreme Court overturned the verdict after a cassation appeal by the RPO, 19 April 2024, available in Polish at: <https://bit.ly/3y7pXYo>.

⁵⁰¹ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.6.2023.MD Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka i Aresztu dla Cudzoziemców w Przemyślu available in Polish at: <https://bit.ly/3UMMIId2>.

⁵⁰² HFHR, 1 August 2023, Somali girl released from immigration detention – a court finds that the authorities misjudged her age, available in English at: <https://bit.ly/4aZCmw1>; SIP, 15 December 2023, Unaccompanied Somali minor released from guarded centre, available in English: <https://bit.ly/4bpaam3>.

⁵⁰³ Articles 87(1) and 88a(1) Law on Protection.

A “risk of absconding” of the asylum seekers exists particularly if they:⁵⁰⁴

- ❖ 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, and since 2021, it is frequently applied especially in the case of the unlawful crossing of the border at the Polish-Belarusian. It should be noted that in several cases, despite having expressed their wish to apply for asylum, their applications were not immediately registered, and third country nationals were detained on the basis of the Act on foreigners provision on the possibility of issuing a deportation decision.⁵⁰⁵ 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.⁵⁰⁶ Additionally the foreigners in most cases are not represented by the professional lawyers- attorney at law or advocates and the courts rely on Border Guard motions, which omit arguments that could indicate that detention is pointless or unjustified. Border Guards are treated by the courts as experts in a migration field and this is a reason why their interpretation of law is accepted by the courts.⁵⁰⁷ Whatsmore the research shows that motion on detention did not contain information about contraindications of placing the migrants in detention.⁵⁰⁸ Only in August 2021, 1,089 persons were placed in detention centres in Poland.

According to relevant research, the Border Guard appears to give priority to internal regulations (instructions, circulars, recommendations issued by their superiors) above national law.⁵⁰⁹ Submission of requests on prolonging the stay in detention by Border Guard is generally considered standard and normal practice. It is not accompanied by a deeper reflection on the need for further detention.⁵¹⁰

⁵⁰⁴ Articles 87(2) and 88a(1) Law on Protection.

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 *ECtHR, CASE OF NIKOGHOSYAN AND OTHERS v. POLAND*, Application no. 14743/17, available at: <https://bit.ly/36062N3>. Information provided by FIPP, Ocalenie Foundation, March 2024.

⁵⁰⁷ Witold Klaus, Monika Szulecka, Dominik Wzorek, *Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych*, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, pp. 30-32, 87,121.

⁵⁰⁸ Witold Klaus, Monika Szulecka, Dominik Wzorek, *Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych*, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p. 162.

⁵⁰⁹ Witold Klaus, Monika Szulecka, Dominik Wzorek, *Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych*, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p. 121.

⁵¹⁰ Witold Klaus, Monika Szulecka, Dominik Wzorek, *Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych*, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p.165.

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.⁵¹¹ 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).⁵¹² An asylum seeker can be detained only if the alternatives to detention cannot be applied.⁵¹³ In practice, asylum seekers are placed in detention automatically (in 96 % of cases, courts disposed a detention order or its prolongation),⁵¹⁴ and alternatives to detention are either not considered, not properly justified or the reasons why they cannot be applied are not explained in detail.⁵¹⁵ In 2022, the Border Guard issued alternatives to detention to 165 asylum seekers and to 817 third country nationals (in total 982)⁵¹⁶ and the courts more often (in 2.5 % cases) than in previous years decided not to place in detention and to apply or not an alternatives to detention (in 1.8 % of cases)⁵¹⁷. In 2023, alternatives to detention were applied in cases of 240 asylum seekers and 1,941 returnees (in total 2,181 persons).⁵¹⁸

Over the period 2017-2023 alternatives to detention were used as follows for migrants, including asylum seekers and returnees:⁵¹⁹

Alternatives to detention in Poland: 2017-2023							
Type of alternative	2017	2018	2019	2020	2021	2022	2023
Reporting obligations	2,094	1,327	1,603	507	818	934	1,933
Residence in a designated place	1,818	1,058	1,522	476	233	281	280
Bail	4	1	3	1	3	6	4
Surrendering travel documents	49	29	36	39	343	223	508
Total	3,965	2,415	3,164	1,023	1,397	1,444	2,725

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; Border Guard Headquarters, 21 March 2024.

⁵¹¹ Article 88(3) of the Law on Protection.

⁵¹² Articles 88(2) and 88b(2)-(3) Law on Protection.

⁵¹³ Article 88a(1) Law on Protection.

⁵¹⁴ Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, pp. 51 and 153.

⁵¹⁵ Information provided by Legal Intervention Association Rule of Law Institute and Nomada Association, February 2023.

⁵¹⁶ Information provided by Border Guards Headquarters to HFHR, 25 January 2023.

⁵¹⁷ Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p. 51

⁵¹⁸ Information of Border Guards Headquarters, 21 March 2024.

⁵¹⁹ In practice, a person may be subject to more than one alternative measure.

According to Polish NGOs, courts examine the possibility of using alternatives to detention only in a superficial way.⁵²⁰ Courts very often argue 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.⁵²¹ The courts generally consider that irregular entry is a sufficient element to determine the existence of a risk of absconding, without conducting an individual assessment if not to evaluate whether alternatives to detention can apply.⁵²²

In 2021, Border Guard submitted the 5169 (in 2022 – 4,372) applications on placing or prolonging the migrant in detention. In 2022, in almost 2.5% (0.7% in 2021) of cases, district courts decided not to place or prolong detention but did not apply alternative measures. In 2022 in 1.8% (2019, 1.9%) the courts decided on alternatives to detention. In 2021, only in 0.3 % cases the courts decided to impose alternative measures. In the case of district courts (Sądy Okręgowe), in 86 % of detention cases, the courts upheld the first instance courts' decisions on detention in the period from 2015 to 2022. In 2022, the number of appeals sent to second instance courts also rose significantly (up to 1,355) and 9.5 % of appeals were successful and in 18 % of cases, the second instance courts decided to release the foreigners and apply the alternatives to detention.⁵²³

3. Detention of vulnerable applicants

Indicators: Detention of Vulnerable Applicants

1. Are unaccompanied asylum-seeking children detained in practice?

<input type="checkbox"/> Frequently	<input checked="" type="checkbox"/> Rarely	<input type="checkbox"/> Never
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 - ❖ If frequently or rarely, are they only detained in border/transit zones? Yes No

2. Are asylum seeking children in families detained in practice?

<input checked="" type="checkbox"/> Frequently	<input type="checkbox"/> Rarely	<input type="checkbox"/> Never
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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.⁵²⁴ 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.⁵²⁵ In 2023, at least 18 (6 from Lesznowola, 6 in **Kętrzyn**, 6 from Krosno) migrants benefited from this form of transport.⁵²⁶

3.1 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.

⁵²⁰ Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p. 97. The first and second instance court ignore the fact that the migrant could pay the bail, she had a place to live in Poland as she was living in Poland for 9 years.

⁵²¹ Information provided by HFHR in February 2023.

⁵²² Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p.165, 193.

⁵²³ Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p. 51-53, 56.

⁵²⁴ Article 89cb Law on Protection. Border Guard Unit in Biała Podlaska, Przemyśl, Białystok do not have statistics in this regard. BG Unit in Kętrzyn and Lesznowola, 2024.

⁵²⁵ Commissioner for Human Rights asks about assistance for foreigners released from guarded centres. Border Guard respons, February 2023, available (PL) at <https://bit.ly/3Bvjq8d>.

⁵²⁶ Letter from BG unit Krosno, 23 February 2024.

This is also applicable to asylum seekers whose detention causes a serious threat to their life or health,⁵²⁷ as under the law, an asylum seeker should be released if further detention constitutes a threat to their life or health.⁵²⁸ 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. In practice, persons with disabilities are sometimes detained.⁵²⁹

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.⁵³⁰

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.⁵³¹ 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.⁵³² Identification should be conducted before placing in detention and not in detention.

According to the Commissioner for Human Rights and NGOs, the authorities do not always release migrants who suffered the violence in their country of origin⁵³³ or, more recently, at the Polish-Belarusian border.⁵³⁴ In 2022 and 2023, 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 people 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

⁵²⁷ Article 88a(3) Law on Protection. In Kętrzyn 2 person were released on the basis of this provision in 2023, Border Guard Unit in Kętrzyn.

⁵²⁸ Article 406(1)(2) Law on Foreigners.

⁵²⁹ Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p. 80, describes of a detention case of a person who was disable (lack of one limb).

⁵³⁰ [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>; Judgement Court of Appeals in Białystok (Sąd Apelacyjny w Białymstoku) Sygn. akt II AKa 136/23, 28 November 2023.

⁵³¹ [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>. Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH Krajowy Mechanizm Prewencji KMP.572.6.2023.MD Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka i Aresztu dla Cudzoziemców w Przemyślu available in Polish: Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH Krajowy Mechanizm Prewencji KMP.572.6.2023.MD Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka i Aresztu dla Cudzoziemców w Przemyślu available in Polish at: <https://bit.ly/3UMMIId2>.

⁵³² [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>.

⁵³³ Migration: Key fundamental rights concerns – January 2021- June 2021, FRA Bulletin 2, available in English at <https://bit.ly/3OoWmgA>, 23. Judgement Court of Appeals in Białystok (Sąd Apelacyjny w Białymstoku) Sygn. akt II AKa 136/23, 28 November 23.

⁵³⁴ [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>. Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH Krajowy Mechanizm Prewencji KMP.572.7.2023.KK Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej, available in Polish at: <https://bit.ly/44tKu5y>.

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. However, there are serious doubts about the ability of the Border Guards officers to recognise if a migrant is a violence victim as not all of them are specialised in the identification of vulnerable asylum seekers. 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.⁵³⁵ Additionally, the people 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.⁵³⁶ Moreover, the guidelines do not introduce a procedure to release immediately the victim of violence from a detention centre, as this could be disposed only if it is established that prolongation of detention would cause a threat to the person's life or health. The NPM recommends not using the guidelines prepared by the Border Guards as they are against the national 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.⁵³⁷

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.⁵³⁸

According to the Commissioner for Human Rights,⁵³⁹ 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;

⁵³⁵ [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>.

⁵³⁶ 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>. Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczenia cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, 81.

⁵³⁷ [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>.

⁵³⁸ 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>. Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczenia cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p.81.

⁵³⁹ 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>, 43.

- ❖ 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 the 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.⁵⁴⁰ And in practice, foreigners who should never be placed in detention centres, stay there longer. In one of its recommendations, National Prevention Mechanism called for the Border Guards to abandon guidelines and create a tool that could effectively identify foreigners with experience of torture or other forms of violence.⁵⁴¹

Representatives of the Commissioner for Human Rights met foreign nationals 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.⁵⁴²

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.⁵⁴³ For example, in the detention centre in **Krosno**, only one psychologist was hired for 8 hours, once a week who was responsible for 79 people in **Krosno Odrzańskie**⁵⁴⁴ or **Czerwony Bór** there was only one internal psychologist who was a Border Guard Officer.⁵⁴⁵ In Białystok and in Biała Podlaska⁵⁴⁶ there are two psychologist – one internal and one external (3 days in a week).⁵⁴⁷ Despite these deficiencies, the Border Guards in **Kętrzyn**, **Biała Podlaska** and **Lesznów** did not agree to grant access to detention centres to NGOs specialising in providing psychological assistance for migrants and asylum seekers.⁵⁴⁸ In the opinion of NPM, an additional psychologist should be employed in Biała Podlaska to address existing needs.⁵⁴⁹

The Commissioner pointed out that the number of hired psychologists and physicians in detention centres is insufficient⁵⁵⁰ and the psychologists do not know the languages of the migrants, which made it difficult

⁵⁴⁰ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.7.2023.KK, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej, available in Polish at: <https://bit.ly/44tKu5y>.

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 here: <https://bit.ly/3URYZek>.

⁵⁴² Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>.

⁵⁴³ Commissioner for Human Rights, Letter to the Regional Courts, 25 January 2022, available at: <https://bit.ly/3HnQZJL>.

⁵⁴⁴ BG in Krosno Odrzańskie, 23 February 2024.

⁵⁴⁵ 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>,

⁵⁴⁶ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.7.2023.KK, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej available in Polish at: <https://bit.ly/44tKu5y>.

⁵⁴⁷ Letter from the Border Guards Unit in Białystok, 12 February 2024.

⁵⁴⁸ Information provided by Polish Migration Forum, February 2023.

⁵⁴⁹ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.7.2023.KK, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej, available in Polish at: <https://bit.ly/44tKu5y>.

⁵⁵⁰ Commissioner for Human Rights, visit in detention centre in Wędrzyn in January 2022, available at <https://bit.ly/3M7oXpx>

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 identified before the crisis on the Polish-Belarusian border and the overcrowding in detention centres had dramatically worsened the access to psychologists and medical care.⁵⁵¹ The Ombudsman expressed concerns regarding the fact that access to psychological assistance provided by the NGOs is significantly limited.⁵⁵²

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.⁵⁵³ Additionally, courts do not accept psychological opinions submitted by independent psychologists (e.g. from NGOs),⁵⁵⁴ only in exceptional cases the Regional courts take them into account⁵⁵⁵ 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.⁵⁵⁶ There are doubts as to whether the physician conducts medical checks on individuals before issuing health certificates. Physicians typically have general specializations, which means they may lack the expertise to assess the mental state of a detained person.

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.⁵⁵⁷

In practice, only courts of higher instance call on experts to determine applicants' mental health state but this happens very rarely (once in 2021).⁵⁵⁸ 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.⁵⁵⁹ In 2020, no expert was appointed in any district or regional court in a total of 777 cases.⁵⁶⁰ No information was available for 2023. Additionally, courts do not conduct their own evidentiary proceedings.⁵⁶¹

In 2018 and in 2022⁵⁶² 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

⁵⁵¹ 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>.

⁵⁵² Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Psychological assistance in guarded centres for foreigners - also from NGOs, 25 April 2023, available in Polish at: <https://bit.ly/3WpQ5I3>.

⁵⁵³ Information provided by Legal Intervention Association, January-February 2023.

⁵⁵⁴ Information provided by Legal Intervention Association, HFHR, January 2023.

⁵⁵⁵ Foreigner released by court from guarded centre after experiencing violence, 24 November 2023, Stowarzyszenie Intwencji Prawnej, available in Polish at: <https://bit.ly/3Wr9xnQ> and <https://bit.ly/4bEQyKT>.

⁵⁵⁶ 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>.

⁵⁵⁷ 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>. Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024.

⁵⁵⁸ UN Committee against Torture, Concluding observations on the seventh periodic report of Poland, 22-24 July 2019, available at: <https://bit.ly/36kr8Qv>

⁵⁵⁹ Information provided by Regional Court in Olsztyn to SIP, 21 January 2022.

⁵⁶⁰ 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>.

⁵⁶¹ SIP, interview, January 2021: Information provided by HFHR, March 2024.

⁵⁶² [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>.

treatment and therapy in the detention centres deepens the trauma.⁵⁶³ Torture survivors stay in detention centres and even if they are identified at a later stage, they are not released from detention.⁵⁶⁴

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,⁵⁶⁵ Poland should 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.⁵⁶⁶

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.

The CPT reported on various shortcomings in detention centres. In particular, that few regular visits were conducted by psychiatrists, the lack of clinical psychologists, delays in accessing specialised medical care, including dental and gynaecological care; lack of screening for possible traumatic mental disorders and signs of victimisation; the need to introduce a register of injuries found during admission and stay in a Border Guard facility; the need for specialised training for medical staff in documenting and interpreting injuries, including techniques for interviewing people who may have been mistreated; cases of breaches of medical confidentiality in situations where other foreign nationals were asked to participate in examinations for translation purposes.⁵⁶⁷

On 18 January 2020, the European Court of Human Rights communicated the case of *A.A. against Poland*.⁵⁶⁸ 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, as required by Article 5 § 4 of the Convention. Poland undertook to pay the applicant the amount of EUR 9,000.

⁵⁶³ 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>.

⁵⁶⁴ Information provided by the HFHR, January 2023.

⁵⁶⁵ CAT (2019) Concluding Observations: Poland CAT/C/POL/CO/7, available at: <https://bit.ly/3nx6BXs>.

⁵⁶⁶ Commissioner for Human Rights, 'Uwagi końcowe Komitetu Przeciwko Torturom wobec Polski' available at: <https://bit.ly/36jgfhN>.

⁵⁶⁷ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, February 2024, available at: <https://bit.ly/3wi1FDy>.

⁵⁶⁸ ECtHR, "A.A. against Poland" Application, no. 47888/19, lodged on 29 August 2019, available at: <https://bit.ly/2TPp6Fp>.

3.2 Detention of children

According to the law, unaccompanied asylum-seeking children should not be detained.⁵⁶⁹ In practice, some unaccompanied children are placed in the detention centres if they are accompanied by unrelated adults⁵⁷⁰ or when there are doubts as to their age or if they were placed in detention as irregular migrants (which is possible under the law)⁵⁷¹ 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.⁵⁷²

Detaining children is a regular practice.⁵⁷³ Families with children were placed in detention centres in **Lesznowola** (since September 2023), **Biała Podlaska** (until 8 September 2023) and **Kętrzyn**. In 2023 unaccompanied children were placed in a detention centre in Kętrzyn, Biała Podlaska and finally in **Lesznowola**. In total (Detention centre in Biała Podlaska reported 6) 29 unaccompanied and 115 children were reported in detention centres.⁵⁷⁴

According to NGOs, in some cases minors are placed in detention centres as a result of medical examinations of their age.⁵⁷⁵

The 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 of a minor. Additionally, the age assessment certificate should include a description of the examination along with the error limit.⁵⁷⁶

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 in 2022.⁵⁷⁷ The CPT underlined that there were no daily activities for pre-school children and no purposeful structured activities for adults, except for some weekly Polish language courses organised shortly before the CPT visit in 2022.⁵⁷⁸

⁵⁶⁹ Article 88a(3) Law on Protection.

⁵⁷⁰ [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.

⁵⁷¹ BG in Krosno Odrzańskie, 3 March 2023.

⁵⁷² 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.

⁵⁷³ Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, pp. 207-208.

⁵⁷⁴ Letter from Border Guards in Biała Podlaska, 13 February 2024.

⁵⁷⁵ Information provided by HFHR, FIPP, February 2024. Stowarzyszenie Interwencji Prawnej, Unaccompanied Somali minor released from guarded centre available in Polish and English, 15 December 2023, available at: <https://bit.ly/4bpaam3>; HFHR, Somali girl released from immigration detention – a court finds that the authorities misjudged her age, 1 August 2023, available in English at: <https://bit.ly/3UJPKK>.

⁵⁷⁶ [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>; Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.7.2023.KK, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej, available in Polish at: <https://bit.ly/44tKu5y>.

⁵⁷⁷ [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>.

⁵⁷⁸ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, February 2024, available at: <https://bit.ly/3wi1Fdy>.

Children in detention centres: 2023			
Centre	Number of children detained in 2023 in total	Number of UAMs in 2023	Average Length of detention in 2023
Kętrzyn (for UAMs only till 5.06.2023, since 24.03.23 only for men)	50	22	102 days
Przemyśl	-	-	-
Lesznowola	79	13	86
Biała Podlaska(since 08.09.23 only for men,)	133	6	
Białystok	-	-	-
Krosno Odrzańskie	-	-	-

Source: Letter of the Border Guard Office in Biała Podlaska, 8 March 2023, in Kętrzyn 8 February 2024, Krosno Odrzańskie 3 March 2023, in Przemyśl 10 March 2023, Border Guard Headquarters 18 March 2024.

In 2021, the number of detained children has increased to 567 in total. 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.⁵⁷⁹ In 2023, according to the Border Guard Headquarters, 115 children and 29 unaccompanied children were in detention centres.⁵⁸⁰

The policy of protection of children in detention was put in place from 2018, when 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.⁵⁸¹ In 2021, there were 2 cases of abuse against children, including one in Kętrzyn and one in Biała Podlaska.⁵⁸² In 2023, 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, which are still valid as no measures to limit the use of detention for these applications were adopted up to the present.⁵⁸³

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 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.

In the opinion of the Commissioner for Human Rights, the Commissioner for Children's Rights,⁵⁸⁴ HFHR⁵⁸⁵ and other NGOs in Poland, child detention should be forbidden by law in all cases because detention,

⁵⁷⁹ Information from the Border Guards Headquarters, 7 September 2022.

⁵⁸⁰ Information from the Border Guards Headquarters, 18 March 2024.

⁵⁸¹ Communication from Poland concerning the case *Bistieva and others v. Poland* (application No. 75157/14), 14 June 2019, available at: <https://bit.ly/2RzjAVU>.

⁵⁸² Information provided by different Border Guard Units in Białystok, Kętrzyn, Przemyśl, Lesznowola and FIPP, 2022.

⁵⁸³ 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>.

⁵⁸⁴ Commissioner for Child's Rights, "Wystąpienie do Prezesa Rady Ministrów", 3 December 2018, available in Polish at: <https://bit.ly/2TCZ45d>.

⁵⁸⁵ HFHR, 21 June 2023, Migrant children should not be detained in guarded centres. HFHR intervenes in ECtHR proceedings in connection with the detention of children, available in English at: <https://bit.ly/3wuMr4O>.

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.⁵⁸⁶ The CPT recommended Poland should avoid detaining families with children in guarded centres for foreigners and to ensure that if children are exceptionally placed in a guarded centre, it should be for the shortest possible period.⁵⁸⁷

As of 2023, in general detention decisions still did not consider the best interest of the child and the individual situation of the child.⁵⁸⁸

When placing a child in a guarded centre together with parents, the courts do not mention children and their personal situation in a justification of the detention decision.⁵⁸⁹ In addition, the courts place families in guarded centres for a maximum period of time, rather than for the shortest period.⁵⁹⁰ Children's detention is ordered automatically, without an individual assessment of their situation and needs. Detention is not considered as a measure of a last resort, and no assessment is conducted as to whether alternatives to detention could be applied.⁵⁹¹ Furthermore, justifications for the courts' decisions were adapted from the BG application for placing or prolonging the detention. Moreover, courts and the Border Guard treat detention as a form of punishment for crossing the border illegally.⁵⁹²

National caselaw

The Supreme Court, recognising cassation in the case of compensation for detention, has delivered one of the most important judgments in detention cases in recent years. The case concerned a single mother who was detained for 16.5 months with her young child. The Supreme Court clarifies that should be obvious but are often ignored by Polish courts: any rationale for detention must be proven and courts cannot rely solely 'on presumptions', for detention to be lawful it must be necessary in the particular case, detention of refugees does not have a repressive function, nor is the purpose of its use to protect the borders of the Republic of Poland or the external borders of the European Union, let alone to combat the phenomenon of illegal immigration, the welfare of the child often overlooked in refugee and detention procedures, and should be the overriding value.⁵⁹³

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

⁵⁸⁶ HFHR, "Rights of persons deprived of liberty-fundamental legal and practical issues. HFHR perspective", July 2018, available at: <https://bit.ly/2SktNaF>.

⁵⁸⁷ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, published 22 February 2024, available in English at: <https://rm.coe.int/1680ae9529>.

⁵⁸⁸ Information provided by HFHR and SIP, February 2024, available at: <https://bit.ly/4dnGMOM>, Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, 208.

⁵⁸⁹ 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>. Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, 109.

⁵⁹⁰ HFHR, „Prawa osób pozbawionych wolności”, 2018, available (PL) at: <https://bit.ly/3NDBTqo>.

⁵⁹¹ Stowarzyszenie Interwencji Prawnej, 20 October 2023, Another intervention before the ECHR concerning the detention of migrants in Poland, available in English at: <https://bit.ly/3UrBIFP> and <https://bit.ly/4dnGMOM>.

⁵⁹² 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>. Witold Klaus, Monika Szulecka, Dominik Wzorek, Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p.121.

⁵⁹³ JUDGMENT ON BEHALF OF THE REPUBLIC OF POLAND of the Supreme Court in a case filed by R. Z. and S. Z. regarding compensation for unjust placement in a guarded centre for foreigners, 20 June 2023, available in Polish at: <https://bit.ly/3yby069>.

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 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.⁵⁹⁴

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. The 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.⁵⁹⁵

International caselaw

On 8 January 2018, the European Court of Human Rights communicated the case of ***M.Z. and Others against Poland***.⁵⁹⁶ The application was lodged on 25 April 2017 and concerned a family with two children from Tajikistan, placed in the detention centre in **Przemysł** 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 investigated properly when deciding on detention.⁵⁹⁷ 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 23 February 2021, the European Court of Human Rights communicated the case of ***Z.E. and Others against Poland***.⁵⁹⁸ The application was lodged on 17 January 2017 and concerned a single mother with

⁵⁹⁴ SIP, Compensation for unjustified detention of family of three, victims of violence, 25 April 2023, available at: ECtHR, *CASE OF NIKOGHOSYAN AND OTHERS v. POLAND*, Application no. 14743/17, available at: <https://bit.ly/36062N3>.

⁵⁹⁶ ECtHR, *M.Z. and Others against Poland*, Application No 79752/16, lodged on 25 April 2017, available at: <https://bit.ly/3aAVOAJ>.

⁵⁹⁷ HFHR, *Warsaw court to rule on moral damages for family's wrongful immigration detention*, 6 February 2019, available at: <https://bit.ly/3aEq50Y>.

⁵⁹⁸ ECtHR, *M.Z. and Others against Poland*, Application No 79752/16, lodged on 25 April 2017, available at: <https://bit.ly/3aAVOAJ>.

four children from Chechnya, victims of domestic violence, placed in the detention centre in Kętrzyn for more than 10 months.⁵⁹⁹ 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 10 January 2023, the ECtHR communicated the case **V.M. and Others against Poland**. The case concerns the ongoing detention in **Biała Podlaska** of an Armenian mother and her two children pending their asylum and deportation proceedings. The mother's mental health deteriorated heavily after she had a miscarriage while in detention.⁶⁰⁰

On 9 February 2023, the ECtHR⁶⁰¹ issued a judgment in **R.M. and Others against Poland**. 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.⁶⁰²

In April 2023, the ECtHR communicated the case **M.S.T. and Others against Poland**. The applicants complained that their prolonged detention violated Article 3 of the Convention owing to the nature of detention as such, as well as to the prison-like conditions of the Guarded Centre in **Kętrzyn**, including room sizes of less than 4 m² per person, lack of protection from the summer heat, restriction of outdoor activities, personal inspection upon admission to the centre violating the dignity of the applicants or failure to provide any privacy to conduct their private and family life. the lack of proper psychological and medical care for their mental and physical conditions. They also complain that detention was not a measure of last resort and that neither possibility to apply alternative measures nor the best interest of the child were not taken into account. The applicant also alleged not to have had access to legal representation during the proceedings. They also underlined that court documents were translated into a language they did not understand, the failure to consider requests for evidence relevant to the case and, moreover, the failure to thoroughly examine the possibility of alternative measures to detention and the failure to take into account the best interests of the minor child when making judgments.⁶⁰³

On 16 May 2023, the European Court of Human Rights (ECtHR) communicated the case of **Z.H.R. and Others v. Poland** concerning detention of an Iraqi national and her two children in the Guarded Centre for Migrants in **Lesznów** and later in **Biała Podlaska**. The family stayed in the centres for ten months in 2021-2022, despite the mother's deteriorating mental state.⁶⁰⁴

On 10 July 2023, the ECtHR communicated the case **M.H.D. and Others against Poland** filed by the Iraqi nationals, a married couple with two minor children, who were detained in two detention centres: **Lesznów** and, subsequently, in **Kętrzyn** for at least six months. They complain about the conditions of their detention in both detention centres, insufficient space in the room, limited time that they could

⁵⁹⁹ *Z.E. and Others against Poland*, Application no. 4457/18 available in English at <https://bit.ly/39bqig4>.

⁶⁰⁰ 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>.

⁶⁰¹ ECtHR, *M.R and others against Poland*, Application No 11247/18, lodged on 26 February 2018, available at: <https://bit.ly/30TcvCz>.

⁶⁰² ECtHR, Judgment, 9 February 2023, *M.R and others against Poland*, available (FR) at: <https://bit.ly/3M0Us6s>.

⁶⁰³ ECtHR, Application 404464/22, *M.S.T. and Others against Poland*, available in English at: <https://bit.ly/4dmkLQp>.

⁶⁰⁴ ECtHR, Application, *Z.H.R. and others v Poland*, available in English: <https://bit.ly/4dq4iKR>.

spend outside. Additionally, the applicants who were victims of violence, complained that they were not provided with adequate psychological and medical care, they were twice subjected to personal checks and that they had to strip naked which was particularly humiliating and infringed their dignity. The applicants further complained that the centre was not adjusted to the needs of minor applicants – they indicate that a prolonged stay in the centre was unnecessary and harmful for the psychological development of the children who did not receive adequate medical treatment. Lastly, they complain, that the decisions ordering their detention lacked legal and factual grounds, the review of their appeals against their detention orders was limited in scope and the respective procedure lacked the necessary guaranties.⁶⁰⁵

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 children was deteriorating. On 10 February 2021, the case was communicated to the Polish government.⁶⁰⁶ The case is still pending as of April 2024.

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.⁶⁰⁷ 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.⁶⁰⁸ 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.⁶⁰⁹ 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.⁶¹⁰ However, this is not reflected in courts’ decisions.⁶¹¹

If third country nationals 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. In practice it means that foreigners do not know how long they will be in detention centre which caused the distress, anxiety

⁶⁰⁵ ECtHR, Application no. 22399/22, M.H.D. and Others against Poland, lodged on 28 April 2022 communicated on 10 July 2023, available in English: <https://bit.ly/4b18nDU>.

⁶⁰⁶ HFHR, Pierwsza sprawa z Polski dotycząca detencji cudzoziemców przed Komitetem Praw Człowieka ONZ, available (PL) at: <http://bit.ly/2MOh8v3>.

⁶⁰⁷ Article 89(1) Law on Protection.

⁶⁰⁸ Article 89(2)-(3) Law on Protection.

⁶⁰⁹ Article 89(4)-(5) Law on Protection; Article 404(5) Law on Foreigners.

⁶¹⁰ Article 89(4a) Law on Protection.

⁶¹¹ Stowarzyszenie Interwencji Prawnej, 20 October 2023, Another intervention before the ECHR concerning the detention of migrants in Poland, available in English: <https://bit.ly/3UrBIFP> and <https://bit.ly/4dnGMOM>.

and exacerbated the deterioration of their psychological state. Automatic and long detention of the foreigners, lack of proper psychological assistance resulted in hunger strikes and suicidal attempts.⁶¹²

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)? Yes No
2. If so, are asylum seekers ever detained in practice in prisons for the purpose of the asylum procedure? Yes 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.

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**)⁶¹³ and on the corridors. In addition, all centres are surrounded by high walls topped with barbed wire.⁶¹⁴

1.1. Guarded centres

Until August 2021, there were 6 guarded detention centres in Poland, which were destined to different 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)⁶¹⁵ and **Przemyśl**. Unaccompanied children were 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). Additionally, the profiles of detentions centres changed several times. As of December 2022, the maximum capacity of detention centres was of 1,152 places.⁶¹⁶ 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.

In 2023 the profiles of detention centres were changed. Families with children and unaccompanied children are placed only in centre in **Lesznowola**.

⁶¹² HFHR, 26 January 2023, Hunger strikes in guarded centres for foreigners - position and recommendations of the HFHR, available in Polish at: <https://bit.ly/4bETJCj>.

⁶¹³ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.6.2023.MD, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka i Aresztu dla Cudzoziemców w Przemyślu available in Polish at: <https://bit.ly/3UMMIId2>.

⁶¹⁴ Information BG, Przemyśl 10 March 2023, Krosno 3 March 2023.

⁶¹⁵ Information of the Border Guard Headquarters, 4 March 2022.

⁶¹⁶ Information from BG Headquarters, 25 January 2023.

Detention centres for foreigners are located in:

Centre	2020		2021		2022		2023	
	Capacity	Occupancy at end of year	Capacity	Occupancy at end of year	Capacity	Occupancy at end of year	Capacity	Occupancy at end of year
Biała Podlaska	130	0	188	0	130	74	130	103
Biała Podlaska (adopted open centre)			200	152	0	0	-	-
Białystok Czerwony Bór	122	40	141 147	134 122	159 0	155 0	159 -	57 -
Lesznowola	73	38	192	147	392	158	200	48
Kętrzyn	120	69	478	392	220	48	137(10)	129
Krosno Odrzańskie Wędrzyn	64	39	80 700	74 612	80	79	80 -	80 -
Przemyśl (guarded centre)	86	62	145	81	147	131	147 ⁶¹⁷	131
Przemyśl (Arrest for Foreigners)			37	23	24	8	24	9
Total	595	248	2,308	1,737	1,152	535	877	509

Source: Border Guard, 1 February 2022, 29 March 2022, 25 January 2023, 7 March 2023, 12 February 2024, Headquarters 21 March 2024.

According to the Border Guard, there is a possibility to change a room upon justified demand, depending on availability.⁶¹⁸

In 2023, the number of migrants and asylum seekers hosted in the centres were as follows: 543 in Białystok, 425 in Biała Podlaska, 524 in Lesznowola, 490 in Kętrzyn and 321 in Krosno.⁶¹⁹ The average stay in detention centre in Przemyśl was 5 months, in Kętrzyn 102 days and in Lesznowola 86 days (95 days at the beginning of the year and 87 days in the middle of a year).⁶²⁰

Polish authorities removed bars from the windows in some detention centres and installed special secure windows in **Lesznowola, Kętrzyn and Biała Podlaska** (in a reopened detention centre).⁶²¹

⁶¹⁷ Since 1 February 2024 – 93 places in detention centre in Przemyśl.

⁶¹⁸ Information provided by the Border Guard in Krosno, 23 February 2024.

⁶¹⁹ Information from Border Guards in Krosno, 23 February 2024.

⁶²⁰ Information from Border Guard in Przemyśl, 5 March 2024.

⁶²¹ Information provided by Border Guard, 5 February 2021.

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.⁶²² At the end of 2023, there were 24 places in **Przemyśl** for men and women.⁶²³ The building is single unit with a separate entrance.⁶²⁴ The facility is covered by video surveillance that includes residential cells, public areas and the outside area 24 hours per day.⁶²⁵

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 rules.⁶²⁶ 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). 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 asylum seekers have limited access to the internet and the phone. They have to knock at the door to be taken to the toilet, in some cases having to wait for a long period of time.⁶²⁷

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.⁶²⁸ The facility needs urgent renovation works. One of the problems was the lack of sanitary corners in the cells. Therefore, individuals who stay there for a couple of months 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.⁶²⁹ The living cells are permanently monitored and furniture items are permanently fixed to the floor.⁶³⁰

Persons detained 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.⁶³¹

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

⁶²² 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.

⁶²³ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.7.2023.KK, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej available in Polish here: <https://bit.ly/3UMMIId2>.

⁶²⁴ Information provided by the Border Guard, 14 and 25 January 2019.

⁶²⁵ Information provided by BG, 10 March 2023.

⁶²⁶ Article 88a(2) Law on Protection.

⁶²⁷ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.6.2023.MD, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka i Aresztu dla Cudzoziemców w Przemyślu available in Polish: <https://bit.ly/3UMMIId2>.

⁶²⁸ Ibid.

⁶²⁹ Ibid.

⁶³⁰ 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, February 2023, available in Polish at <https://bit.ly/42n27ly>. Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.6.2023.MD, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka i Aresztu dla Cudzoziemców w Przemyślu available in Polish at: <https://bit.ly/3UMMIId2>.

⁶³¹ Commissioner for Human Rights, Visit in detention centre in Przemyśl, available at: <https://bit.ly/3pm3PSA>.

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.⁶³²

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.⁶³³ Some practices relating to the functioning of the centres have now been framed into legal provisions.

2.1. Overall conditions

There are six detention centres (**Białystok, Kętrzyn, Biała Podlaska, Przemyśl, Lesznowola, Krosno Odrzańskie**).

The detention centre in **Lesznowola**, opened in 2023, is located in the forest area and far from any public transportation which is a problem for foreigners released from detention centres.

Generally, detainees are accommodated in rooms, which cannot be locked at night for security matters.⁶³⁴

In some detention centres, the food is provided by external providers (**Biała Podlaska**), 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.

The main equipment in a room in the detention centre consists of beds, small wardrobes and a small table.

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 **Lesznowola**⁶³⁵, **Biała Podlaska**,⁶³⁶ **Krosno** 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 1m high and did not provide

⁶³² 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>.

⁶³³ Articles 410-427 Law on Foreigners.

⁶³⁴ CPT Report 2018, available at: <https://bit.ly/2HVZltc>.

⁶³⁵ Commissioner for Human Rights, visit in detention centre in Lesznowola on 8 February 2022, available at: <https://bit.ly/3pm3PSA>.

⁶³⁶ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.7.2023.KK, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej available in Polish at: <https://bit.ly/44tKu5y>; Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, published 22.02.2024, available in English: <https://rm.coe.int/1680ae9529>.

a cover on 3 sides.⁶³⁷ The most common problem in terms of administrative proceedings conducted by officers against foreigners was the language barrier and also the availability of translators.⁶³⁸

Furthermore, the detention centres look like prisons and detention centres in **Krosno Odrzańskie**, **Białystok**, and **Przemyśl** have rooms with barred windows.⁶³⁹ Representatives of the Commissioner for Human Rights also conducted inspections of the detention centre in **Przemyśl** in 2023. They pointed out that bars are still installed in the windows which emphasise the penitentiary nature of the facility.⁶⁴⁰ In 2022 many rooms, foreigners had to hang blankets over the windows to limit sunlight during the day.⁶⁴¹ Un to the present, there are reports that Border Guards address detainees using their identification numbers rather than names.⁶⁴²

2.2. Activities and education

As it was mentioned earlier, the profiles of some detention centres were modified in 2021-2023.

In **Krosno** there are no recreational and sports activities organised for the foreigners.⁶⁴³ On the other hand, in some detention centres the open-air space is of adequate size and sufficient recreational facilities are provided.

In practice, detainees can do outdoor exercises regularly. Detainees can watch television without any limitations, including until late at night.⁶⁴⁴

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. This order is not publicly available and still in force. New technologies such as VoIP (Voice over Internet Protocol) are also forbidden for security reasons even though the CPT

⁶³⁷ [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>.

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 Information provided by the Border Guards in Białystok and Krosno, 2024, Commissioner for Human Rights, *Wyciąg, Strzeżony Ośrodek dla Cudzoziemców w Białej Podlaskiej*, 18-19 July 2018, available (in Polish) at: <https://bit.ly/2TBZ3OY>.

⁶⁴⁰ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.6.2023.MD, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka i Aresztu dla Cudzoziemców w Przemyślu available in Polish at: <https://bit.ly/3UMMIId2>.

⁶⁴¹ 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 Centre and Arrest for Foreigners in Przemyśl, Available in Polish <https://bit.ly/40qJUSd>.

⁶⁴² CPT report: Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, published 22.02.24, available in English: <https://rm.coe.int/1680ae9529>. Information provided by HFHR, March 2024.

⁶⁴³ 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>

⁶⁴⁴ Information provided by the Border Guard, 2023.

recommended this kind of communication to be available for use by foreigners in detention centres.⁶⁴⁵ On the other hand, foreigners placed in some detention centres can use Skype after signing up for the list).⁶⁴⁶

Moreover, migrants cannot use smartphones, which means that access to the Internet is possible only in dedicated rooms with computers.⁶⁴⁷

Not all detainees 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 Guards⁶⁴⁸ 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.⁶⁴⁹

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). At the same time, according to the Commissioner for Human Rights, foreigners complained that additional activities are rarely organised and that they feel bored.⁶⁵⁰ The CPT recommended to put in place a purposeful programme of a structured activities for detained foreigners, including pre-school age children, in all guarded centres.⁶⁵¹ Detention centres provide rooms for religious practices.⁶⁵²

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 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.

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,

⁶⁴⁵ CPT Report 2018, 28; available at: <https://bit.ly/2HVZlIc>. See also Commissioner for Human Rights, *Wyciąg Strzeżony Ośrodek dla Cudzoziemców w Białej Podlaskiej*, 7 January 2019, available (in Polish) at: <https://bit.ly/3wn4aLH>.

⁶⁴⁶ Information provided by the Border Guard, 2023.

⁶⁴⁷ See also: POLAND: CRUELTY NOT COMPASSION, AT EUROPE'S OTHER BORDERS, April 2022, available in English here: <https://bit.ly/3mOh2FV>

⁶⁴⁸ Letter of Border Guards in Białystok, 12 February 2024.

⁶⁴⁹ [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>.

⁶⁵⁰ 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>. Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, published 22.02.2024, available in English: <https://rm.coe.int/1680ae9529>; Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.7.2023.KK Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej available in Polish at: <https://bit.ly/44tKu5y>.

⁶⁵¹ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February 2024, available in English: <https://rm.coe.int/1680ae9529>.

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>.

Bengali and Vietnamese⁶⁵³ but not in Kurdish.⁶⁵⁴ Depending on the centre they are available on each floor of the detention centre or in the common rooms, etc. According to the CPT, specific attention should be paid to the situation of those detainees who are illiterate or who cannot understand any language in the written form.⁶⁵⁵

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.⁶⁵⁶ None of the children staying there attends school. Schools near the detention centres 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.⁶⁵⁷

2.3. Health care and special needs in detention

According to the law, all detainees have access to regular health care.⁶⁵⁸ Generally, physicians and nurses are hired to work in detention centres. Unfortunately, in some detention centres access to the physician and psychologists - especially if provided by NGOs - was significantly restricted in 2023.⁶⁵⁹ Difficulties in accessing female physicians, paediatricians and gynaecologists were also observed.⁶⁶⁰

In some detention centres nurses are present daily from 7.30 a.m. until 9.30 p.m. According to law, a person admitted to a guarded centre should be immediately subjected to a medical examination.

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.⁶⁶¹

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.

After the visit in 2022, CPT recommended that number of nurses and the doctor's presence should be increased. Another recommendation was to ensure to be presence also at night in detention centre

⁶⁵³ Information provided by the Border Guard, 7 January 2023.

⁶⁵⁴ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February 2024, available in English: <https://rm.coe.int/1680ae9529>.

⁶⁵⁵ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February 2024, available in English: <https://rm.coe.int/1680ae9529>.

⁶⁵⁶ 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>.

⁶⁵⁷ Regulation on education foreigners and Polish citizens who were learning abroad, 23 August 2017, available (in Polish) at: <https://bit.ly/2XkPupP>.

⁶⁵⁸ Articles 415(1)(5) and 417 Law on Foreigners.

⁶⁵⁹ 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/3AIWV58>.

⁶⁶⁰ FIPP, March 2024, Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, published 22.02.2024, available in English: <https://rm.coe.int/1680ae9529>, UN special rapporteur on violence against women and children.

⁶⁶¹ [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>.

trained in first aid (who holds a valid certification in the application of cardiopulmonary resuscitation and the use of an automated external defibrillator).⁶⁶²

Additionally, CPT recommended Polish authorities to put an immediate end to the use of restraint beds in detention facilities for foreigners and remove them from detention centres.⁶⁶³

The NPM, 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.⁶⁶⁴

The NPM recommended also that the detention centre in Przemyśl should develop an examination methodology to identify victims of torture, including through skin inspection, as well as the documentation of identified injury traces in accordance with the instructions in the Istanbul Protocol and reorganising the method of storing medical records of foreigners, in particular in a way that ensures the preservation of the chronology of documents and prevents their loss.⁶⁶⁵

The issue of access to psychological assistance in detention centres is a much more serious matter.⁶⁶⁶ According to the National Prevention Mechanism, in Poland, there is a systemic, long-lasting problem of identification of persons who have experienced torture or any other form of physical, psychological or sexual violence.⁶⁶⁷ 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.⁶⁶⁸

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

⁶⁶² Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February 2024, available in English: <https://rm.coe.int/1680ae9529>.

⁶⁶³ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February 2024, available in English: <https://rm.coe.int/1680ae9529>.

⁶⁶⁴ 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>.

⁶⁶⁵ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.6.2023.MD, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka i Aresztu dla Cudzoziemców w Przemyślu available in Polish at: <https://bit.ly/3UMMId2>.

⁶⁶⁶ 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>.

⁶⁶⁷ Commissioner for Human Rights, BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.6.2023.MD, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka i Aresztu dla Cudzoziemców w Przemyślu, available in Polish at: <https://bit.ly/3UMMId2>.

⁶⁶⁸ [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>. BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji KMP.572.6.2023.MD, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka i Aresztu dla Cudzoziemców w Przemyślu, available in Polish at: <https://bit.ly/3UMMId2>.

document still needs improvements⁶⁶⁹ 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,⁶⁷⁰ 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 and the identification is not carried out. 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.⁶⁷¹

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.⁶⁷² For example, the NPM reported that a victim of torture was placed in the rigorous detention centre in Przemyśl, with the guidelines not applied in his case.⁶⁷³

The CPT recommended that medical screening upon admission to a detention centre should include recording of any signs of injury, together with any relevant statements of the detained person and the doctor's conclusions. A dedicated register on injuries observed during admission and detention should be put in place and attention should be paid to the possible existence of traumatic psychological disorders and signs of victimisation. Furthermore, special training should be provided to healthcare professionals working in guarded centres for foreigners which should cover the technique of interviewing persons who may have been subject to ill-treatment.⁶⁷⁴

Additionally, the CPT noted⁶⁷⁵ that none of the centres benefitted from regular visits by a psychiatrist, and there were no clinical psychologists in any of the healthcare teams. Psychologists employed by the Border Guard formed part of the administrative staff and were usually not involved in any therapeutic work. Consultations by an external psychologist could be organised on an ad hoc basis, based upon the recommendation of health-care professionals or upon request by the detained foreign nationals, their lawyers or NGO representatives supporting the detained persons.⁶⁷⁶

According to the CPT's report, medical confidentiality was generally respected by staff in the detention centre, but due to language barriers and a lack of professional interpretation arrangements, translations during the medical checks were done in the presence and assistance of the other detained foreigners. That is why the CPT recommended ensuring that qualified interpretation is available in all cases when

⁶⁶⁹ [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>.

⁶⁷⁰ Information of HFHR, March 2024.

⁶⁷¹ "Rules of BG proceedings with foreigners who need special treatment (algorithm)", 2015.

⁶⁷² 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 Centre and Arrest for Foreigners in Przemyśl, available in Polish: <https://bit.ly/40wwyno>.

⁶⁷³ 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 Centre and Arrest for Foreigners in Przemyśl, available in Polish: <https://bit.ly/40wwyno>.

⁶⁷⁴ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, published 22.02.2024, available in English: <https://rm.coe.int/1680ae9529>.

⁶⁷⁵ In Białystok, Biała Podlaska and Wędrzyn.

⁶⁷⁶ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, published 22.02.2024, available in English: <https://rm.coe.int/1680ae9529>.

there is a language barrier and the healthcare professional is unable to make a proper diagnostic evaluation and/or communicate treatment need. Additionally, the Committee highlighted that interpretation by a fellow detainee should be avoided by all means.⁶⁷⁷

In 2023 in a guarded centre in **Kętrzyn**, 2 psychologist- officers was available full-time.⁶⁷⁸

In **Krosno** external psychologist was present only for 8 hours a week in 2023.⁶⁷⁹

In **Przemyśl**, psychologists: internal and external are available 80 and 20 hours a month, respectively.⁶⁸⁰

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.⁶⁸¹

In **Lesznawola**, a full-time psychologist who is also a Border Guard officer was hired, and there is one external psychologist available upon request, typically 1-2 times per week.⁶⁸² In Białystok, there were 2 psychologists – one external (available 3 times a week and at the request) and one internal, full time.⁶⁸³

In practice, the limited access to independent psychological care raises great concerns.⁶⁸⁴ The Border Guards refused to allow psychologists to hold meetings with specific individuals in 2023 in detention centres, declaring that foreigners have access to psychological care in detention centres.⁶⁸⁵

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.⁶⁸⁶

⁶⁷⁷ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, published 22.02.2024, available in English: <https://rm.coe.int/1680ae9529>.

⁶⁷⁸ Information of Border Guards in Kętrzyn, 8 February 2024.

⁶⁷⁹ [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>.

⁶⁸⁰ Information provided by the Border Guard in Przemyśl, 5 March 2024.

⁶⁸¹ Letter from the Border Guard Office in Biała Podlaska 13 February 2024.

⁶⁸² Information provided by the Border Guard, 7 February 2024.

⁶⁸³ Letter of Border Guards in Białystok, 12 February 2024.

⁶⁸⁴ See also: Poland: Cruelty Not Compassion, At Europe's Other Borders, April 2022, available in English here: <https://bit.ly/3mOh2FV>.

⁶⁸⁵ 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/3AIWV58>.

⁶⁸⁶ 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/3LOF5YZ>.

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.⁶⁸⁷ 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.⁶⁸⁸ The Head of the Office for Foreigners and UNHCR should be informed about it.⁶⁸⁹ 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.⁶⁹⁰

Since 2022, 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.⁶⁹¹ The CPT underlined that there should be access to the public fund legal assistance.⁶⁹²

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, persons not directly related to detainees faced issues accessing detainees, as border guards informed that the law does not allow it.

There are no limitations concerning the frequency of such visits. 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.

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, starting from 2021 and up to the present, NGOs providing psychological assistance started to face problems in accessing detention centres, i.e., in **Lesznowola**, **Biała Podlaska** or **Kętrzyn**.

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.⁶⁹³ 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).⁶⁹⁴

⁶⁸⁷ Article 415(1)(2), (3) and (19) Law on Foreigners and Article 89a(1)(2) Law on Protection.

⁶⁸⁸ According to the Law on Protection, it will be a possibility only to limit such contact.

⁶⁸⁹ Article 89a(1) and (2) Law on Protection.

⁶⁹⁰ Article 415(1a) Law on Foreigners.

⁶⁹¹ 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/3LOF5YZ>.

⁶⁹² Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February, 2024, available in English at: <https://rm.coe.int/1680ae9529>.

⁶⁹³ Para 21 of the Rules of foreigners' stay in guarded centre and arrest for foreigners (Annex to the Regulation on detention centres).

⁶⁹⁴ Para 23 of the Rules of foreigners' stay in guarded centre and arrest for foreigners (Annex to the Regulation on detention centres).

There is no limitation in using cell phones (without a video recording system). In detention centres, i.e. in Białystok and Lesznawola 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 the calls and for the SIM cards 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.

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.⁶⁹⁵

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 2023, this sanction was used 7 times in **Przemyśl** for 7 days, twice in Kętrzyn for 7 days.⁶⁹⁶

The Border Guard officers buy products (food and basic necessities) requested by detainees usually once a week if the migrants have money in a deposit.⁶⁹⁷ According to the NGOs, the current available funding for this purpose is insufficient. On the other hand, the detainees cannot receive any food or liquid things in packages from other people but they can request specific items through online applications.⁶⁹⁸

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? | Not available | |

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. In practice, it means that two different courts may decide on placing in detention and prolonging it. 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.⁶⁹⁹

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 (while deciding on detention), 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.⁷⁰⁰ 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.

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

⁶⁹⁵ Article 421(2) Law on Foreigners.

⁶⁹⁶ Information provided by the Border Guard in Przemyśl, 5 March 2024, Letter of Border Guards in Kętrzyn 24 February 2024.

⁶⁹⁷ Information provided by HFHR March 2023.

⁶⁹⁸ Letter of Border Guards in Białystok, 12 February 2024.

⁶⁹⁹ Article 89(4) Law on Protection.

⁷⁰⁰ Article 88b(1) Law on Protection.

and their legal situation, for example concerning the length of their detention⁷⁰¹ which has a very negative impact on the mental state of the detained foreign nationals.⁷⁰²

The law provides for judicial review of the lawfulness of detention.⁷⁰³ 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.⁷⁰⁴ 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.⁷⁰⁵

Asylum seekers receive rulings in the language they should understand; a literal translation of a ruling rendered in Polish. In a few cases, NGOs observed that court decisions were not translated in a language that it is not known by the detainee. 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.

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.⁷⁰⁶ Moreover, persons detained are not informed that they can apply for a free legal aid while in detention.

In the appeal procedure and in a prolongation of a detention, detained migrants cannot be present in the court and present their standpoint, according to the Polish law. At the same time, they are not informed about the reasons for prolonging their stay in a detention centre by the Border Guard, for example in Kętrzyn and Białystok.⁷⁰⁷ The application is not handed over to them, so they cannot present their reasons before the Regional Court will decide on their case. Additionally, applicants are not informed about the date of the court's meeting in advance, so they are not able to ask the court to establish a legal representative in their case, which could be financed by the state. Furthermore, the appeal has to be prepared in Polish, so appellants completely depend on NGOs to draft the appeal.

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 2023, motions were submitted at least seven days to two weeks before the end day of detention⁷⁰⁸ or after the case assessment.⁷⁰⁹

Every person is entitled to compensation and redress for wrongful detention from the State Treasury.⁷¹⁰ Some NGOs follow and represent cases of asylum seekers who were a victim of violence. in Olsztyn, Warsaw, Lublin and Elbląg Regional Court.⁷¹¹

⁷⁰¹ CPT Report 2018, available at: <https://bit.ly/2HVZlTc>, 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>.

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 at: <https://bit.ly/3URYZek>.

⁷⁰³ Article 88b(3) Law on Protection; Article 403(8) Law on Foreigners.

⁷⁰⁴ 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.

⁷⁰⁵ Article 88b(3) Law on Protection; Article 403(8) Law on Foreigners.

⁷⁰⁶ 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. Witold Klaus, Monika Szulecka, Dominik Wzorek, *Detencja i jej alternatywy. Analiza orzecznictwa sądowego w sprawie umieszczania cudzoziemców w ośrodkach strzeżonych*, Wydawnictwo Instytutu Wymiaru Sprawiedliwości, 2024, p.218.

⁷⁰⁷ Information provided by the Association for Legal Intervention, February 2021.

⁷⁰⁸ Information provided by different branches of Border Guard, letter, January -March 2024.

⁷⁰⁹ Different branches of Border Guards, 2024.

⁷¹⁰ Article 407 Law on Foreigners.

⁷¹¹ Information of HFHR, FIPP, Ocalenie Foundation and SIP, March 2024.

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.⁷¹² 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.⁷¹³ The court has a clear obligation to inform asylum seekers in a language understandable to them about the right to ask for legal assistance.⁷¹⁴ 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. Applicants are either not informed about the day of the court proceedings or they are informed (in Polish) with very short notice. As a result, they are unable to submit a request for the lawyer on time.⁷¹⁵ Moreover, they generally do not receive a copy of the application on placing them or prolonging their stay in detention, so in practice it means that they are not able to present their standpoint in detention case.

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.

According to the NPM, systemic measures have to be taken to ensure that every migrant deprived of liberty could have the possibility to contact a lawyer.⁷¹⁶ Detained migrants have repeatedly complained about lack of access to legal assistance, which has resulted in a lack of understanding of applicable procedures and their legal situation.⁷¹⁷ Some among them also indicated that the decisions issued by the court to extend their stay in the centre were delivered to them with delay, in a language they did not understand which in practice made it impossible to file a complaint.⁷¹⁸

CPT noticed that legal assistance to detainees was left almost entirely to various non-governmental organisations, whose representatives assist detained foreign nationals on a pro bono basis. The CPT recommended to take appropriate steps – in consultation with the relevant Bar Associations – to ensure that, in all guarded centres in Poland, immigration detainees can effectively benefit from the services of a

⁷¹² Articles 78 Law of 6 June 1997 on the Code of Criminal Procedure, available at: <http://bit.ly/1UcUEO3>.

⁷¹³ Ibid.

⁷¹⁴ Article 88b(4) Law on Protection.

⁷¹⁵ SIP, Annual Report 2019, April 2020, available in Polish at: <https://bit.ly/3sloolp>.

⁷¹⁶ [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>.

⁷¹⁷ BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji, KMP.572.7.2023.KK, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej available in Polish at: <https://bit.ly/44tKu5y>.

⁷¹⁸ [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>. BIURO RZECZNIKA PRAW OBYWATELSKICH, Krajowy Mechanizm Prewencji, KMP.572.7.2023.KK, Raport Krajowego Mechanizmu Prewencji Tortur z wizytacji Strzeżonego Ośrodka dla Cudzoziemców w Białej Podlaskiej available in Polish here: <https://bit.ly/44tKu5y>, information provided by HFHR, March 2024, Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, published 22.02.2024, available in English: <https://rm.coe.int/1680ae9529>.

lawyer in all phases of the legal procedures (including through the provision of free legal aid for foreign nationals who are not able to pay for a lawyer).⁷¹⁹

It was also reported that asylum seekers received a court decision in a language that they did not understand.⁷²⁰

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, while no further reports on the issue were made in 2022 and 2023. 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.⁷²¹

E. Differential treatment of specific nationalities in detention

There is no differential treatment of specific nationalities in detention in Poland. In 2023, 87 asylum seekers were released from the detention centre based on a decision of the Head of the Office for Foreigners.⁷²²

⁷¹⁹ Report to the Polish Government on the visit to Poland carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 21 March to 1 April 2022, 22 February 2024, available in English: <https://rm.coe.int/1680ae9529>.

⁷²⁰ Information provided by HFHR, March 2024.

⁷²¹ [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>.

⁷²² Information Head of the Office for Foreigners, 16 February 2024.

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*).⁷²³ The first permit is issued *ex officio*⁷²⁴ and is renewed after this period for another 3 years upon request.⁷²⁵

Subsidiary protection is also granted for an unlimited time. Subsidiary protection beneficiaries obtain a 2-year residence permit (*karta pobytu*).⁷²⁶ The first permit is also issued *ex officio*,⁷²⁷ and is renewed after this period for another 2 years upon request.⁷²⁸

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*).⁷²⁹ The permit will be renewed after this period for another 2 years.⁷³⁰ The first and subsequent cards are issued at the third-country nationals' request.⁷³¹

As of 31 December 2023, there were 2,726 persons holding a valid residence permit for refugees, 9,729 persons holding a valid residence permit granted to subsidiary protection beneficiaries and 1,879 persons under the humanitarian protection scheme.⁷³²

An application for the renewal of the residence permit should be submitted 30 days before the expiration date of the current residence card.⁷³³ Beneficiaries of protection are often not aware of this rule.

The issuance of the residence permit is paid and costs PLN 100 / EUR 23.42 (the amount has been raised from PLN 50 since 29 July 2022).⁷³⁴ Only the first residence permit is issued free of charge.⁷³⁵ 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.⁷³⁶ There is no possibility of full exoneration from the payment. The obligation to pay even only PLN 50 / EUR 11.71 sometimes prevents third-country nationals 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 PLN 300 / EUR 70.26.⁷³⁷

⁷²³ Article 89i(1) Law on Protection.

⁷²⁴ Article 229(2) Law on Foreigners.

⁷²⁵ Article 89i(2a) Law on Protection.

⁷²⁶ Article 89i(2) Law on Protection.

⁷²⁷ Article 229(2) Law on Foreigners.

⁷²⁸ Article 89i(2a) Law on Protection.

⁷²⁹ Article 243(1)(4) Law on Foreigners.

⁷³⁰ Article 243(2)(3) Law on Foreigners.

⁷³¹ Article 229(1) and Article 229(4)(3) Law on Foreigners.

⁷³² Information provided by the Office for Foreigners, 16 February 2024.

⁷³³ Article 230(2) Law on Foreigners.

⁷³⁴ Article 235(1) Law on Foreigners. Office for Foreigners, 'Nowe stawki opłat za dokumenty wydawane cudzoziemcom', 29 July 2022, available in Polish at: <https://bit.ly/3Bcdocs>.

⁷³⁵ Article 236(1)(a)-(c) Law on Foreigners.

⁷³⁶ Article 237(1) and (2) Law on Foreigners.

⁷³⁷ Article 238 Law on Foreigners.

The Office for Foreigners, responsible for the issuance and renewal of residence permits for refugees and subsidiary protection beneficiaries,⁷³⁸ 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 third-country national's current place of stay.⁷³⁹

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.⁷⁴⁰ There is no possibility to receive this permit by another representative or by post. Moreover, beneficiaries are obliged to give their fingerprints any time they renew a residence permit.⁷⁴¹ If they refuse to give their fingerprints, the residence permit will not be issued.⁷⁴² The obligation to give fingerprints and mandatory personal presence to pick up the permit means that every time a third-country national 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, 11 cases in 2023 – physical impossibility to give fingerprints).⁷⁴³ The lack of a legal possibility to exempt a third-country national 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 third-country nationals.

Failure to renew a residence permit can be punished through a fine,⁷⁴⁴ but this does not happen in practice. There have been no such cases in 2015-2023.⁷⁴⁵

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.⁷⁴⁶

By law, all residence permits should have the annotation “access to the labour market”, if the third-country national is entitled to work in Poland.⁷⁴⁷ 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.⁷⁴⁸ 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 third-country national from receiving social assistance if he is entitled to work in Poland.⁷⁴⁹ Consequently, the Polish authorities changed their practice and no longer refuse the special financial support under the 500+ Programme on that basis.

⁷³⁸ Article 89n(2) Law on Protection.

⁷³⁹ Article 245(4)-(5) Law on Foreigners.

⁷⁴⁰ Article 248(1)-(2) Law on Foreigners.

⁷⁴¹ Article 246(2) Law on Foreigners.

⁷⁴² Article 247 Law on Foreigners.

⁷⁴³ Information provided by the Office for Foreigners, 3 February 2023 and 16 February 2024.

⁷⁴⁴ Article 465(4) Law on Foreigners.

⁷⁴⁵ Information provided by the Office for Foreigners, i.e. 16 February 2024.

⁷⁴⁶ 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](https://bit.ly/3UdM8TL), available at: <https://bit.ly/3UdM8TL>.

⁷⁴⁷ Article 244(1)(11) Law on Foreigners.

⁷⁴⁸ 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.

⁷⁴⁹ See judgments of Voivodeship Administrative Court in Warsaw No I SA/Wa 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.

In 2023, the Commissioner for Human Rights noticed that third-country nationals wait approximately 6 months to receive a new residence card.⁷⁵⁰

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.⁷⁵¹ 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 2023: Not available

The EU long-term residence permit (*zezwolenie na pobyt rezydenta długoterminowego UE*) is issued on a third-country national's demand if he or she:⁷⁵²

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,

⁷⁵⁰ Commissioner for Human Rights, 'Rzecznik: przewlekłość załatwiania spraw cudzoziemców może jeszcze bardziej się wydłużyć. Odpowiedź MSWiA', July and November 2023, available in Polish at: <https://bit.ly/4311vo>.

⁷⁵¹ Law of 28 November 2014 on civil registration certificates.

⁷⁵² Article 211(1) Law on Foreigners.

2. Has stable and regular resources which are sufficient to maintain him or herself and the dependent family members;
3. Has appropriate medical insurance;
4. Knows the Polish language at least on level B1 (the documents confirming having this knowledge are required).⁷⁵³ In 2023, the rules concerning the language requirement were changed. More possibilities to confirm knowing the language were introduced and are specified in the Ordinance of the Ministry of Internal Affairs and Administration of 31 May 2023, in force since 24 June 2023.⁷⁵⁴

Resources are considered sufficient, if for 3 years immediately before the submission of the application a third-country national had an income higher than the income threshold for obtaining social assistance in Poland.⁷⁵⁵

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.⁷⁵⁶ If the previous asylum procedure ended with a refusal of international protection, the period of this procedure is not taken into account at all.⁷⁵⁷ A procedure for an EU long-term residence permit cannot be initiated if a foreign national is a humanitarian protection beneficiary or is seeking asylum.⁷⁵⁸

Refugees and beneficiaries of subsidiary protection may also apply for a permanent residence permit (*zezwoleń na pobyt stały*) if they continuously stayed in Poland for at least 5 years immediately before the submission of the application. The asylum procedure is taken into account in this calculation.⁷⁵⁹ 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 PLN 640 / approx. EUR 150.

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.⁷⁶⁰ The Head of 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.⁷⁶¹ In 2023, the proceedings regarding the EU long-term residence permit lasted, on average, 250 days, and the proceedings concerning the permanent residence permit 202 days.⁷⁶² Thus, these proceedings often take many months, if not years. The backlog of cases before the Voivodes is still rising, leading to significant delays in decision-making. Thus, administrative courts have to deal with rising number of complaints on the excessive proceedings. One court – in Łódź – intervened in this regard before the respective Voivode,

⁷⁵³ Article 211(1)(3) and (3) Law on Foreigners.

⁷⁵⁴ Office for Foreigners, 'Zmiany w przepisach regulujących udzielanie zezwoleń na pobyt rezydenta długoterminowego UE', 28 June 2023, available in Polish at: <https://bit.ly/4aBRcYU>.

⁷⁵⁵ Article 211(2) Law on Foreigners.

⁷⁵⁶ Article 212(1) (2) and (3c) Law on Foreigners.

⁷⁵⁷ Article 212(2)(8) Law on Foreigners.

⁷⁵⁸ Article 213(1)(e)-(f) Law on Foreigners.

⁷⁵⁹ Article 195(1)(6) and Article 195(3) Law on Foreigners.

⁷⁶⁰ Articles 201 and 218(1) Law on Foreigners.

⁷⁶¹ Articles 210 and 223 Law on Foreigners.

⁷⁶² Information provided by the Office for Foreigners, 16 February 2024. In some voivodships, the waiting period may be as long as 12-15 months, see e.g. Fundacja EMIC, 'Czekając na zwykłe życie - legalizacja pobytu migranta/migrantki w Polsce', available in Polish at: <https://bit.ly/3IZZRbU>, 11 August 2023.

indicating on the constant violation of rights of third-country nationals.⁷⁶³ In 2023, the Supreme Audit Office confirmed the deepening inefficiency of the Voivodship Offices.⁷⁶⁴ Moreover, 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. In new cases, the time limits did not start to run.⁷⁶⁵ In 2024, this suspension was prolonged until 30 September 2025.⁷⁶⁶ This affected the third-country nationals' right to complain regarding the excessive length of their proceedings.⁷⁶⁷

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 2023:	Not available

Polish citizenship can be obtained through two procedures. Firstly, citizenship can be granted by the Polish President.⁷⁶⁸ Any third-country national can apply to President to be granted Polish citizenship; there are no specific conditions and criteria for obtaining citizenship in this procedure. A third-country national 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.⁷⁶⁹ 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 third-country national can be declared as a Polish citizen if they fulfil the criteria specified in law.⁷⁷⁰ 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.⁷⁷¹ 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 third-country national 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).⁷⁷²

Both, refugees and subsidiary protection beneficiaries, to be declared as a Polish citizen, have to prove that they know Polish language.⁷⁷³ Third-country nationals should present a document confirming that

⁷⁶³ Commissioner for Human Rights, 'Rzecznik: przewlekłość załatwiania spraw cudzoziemców może jeszcze bardziej się wydłużyć. Odpowiedź MSWiA', July and November 2023, available in Polish at: <https://bit.ly/43I1Ivo>.

⁷⁶⁴ Supreme Audit Office, 'Obsługa obywateli polskich i cudzoziemców w jednostkach administracji publicznej', 28 November 2023, available in Polish at: <https://bit.ly/3UyFI9>.

⁷⁶⁵ Article 100c of the Law on assistance to Ukrainian nationals.

⁷⁶⁶ Article 100d of the Law on assistance to Ukrainian nationals, added by the amendment of 13 January 2023 and changed by the Law amending the Special Law of 15 May 2024, in force since 1 July 2024.

⁷⁶⁷ Commissioner for Human Rights, 'Rzecznik: przewlekłość załatwiania spraw cudzoziemców może jeszcze bardziej się wydłużyć. Odpowiedź MSWiA', July and November 2023, available in Polish at: <https://bit.ly/43I1Ivo>. However, the courts' views in this regard are not coherent.

⁷⁶⁸ Article 18 Law of 2 April 2009 on Polish citizenship.

⁷⁶⁹ Article 19-21 Law on Polish citizenship.

⁷⁷⁰ Article 30 Law on Polish citizenship.

⁷⁷¹ Article 30(1)(3) Law on Polish citizenship.

⁷⁷² Article 30(1)(1), (2) and (6) Law on Polish citizenship.

⁷⁷³ Article 30(2) Law on Polish citizenship.

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 (4 times per year in 2021-2023) and they are costly.⁷⁷⁴ To take an exam, third-country nationals often have to travel to another city, bearing the costs not only of the exam itself but also of transportation and hotel,⁷⁷⁵ 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 organised. 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.⁷⁷⁶

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.⁷⁷⁷

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.⁷⁷⁸ The fee for obtaining citizenship is 219 PLN/approx. 51 EUR. The Voivode decision can be appealed to the Minister of Interior.⁷⁷⁹ 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 third-country national:⁷⁸⁰

- 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;

⁷⁷⁴ Information from the official exams' website, available (in Polish) at: <https://bit.ly/2uBSEMw>.

⁷⁷⁵ P. Kaźmierkiewicz, 'Obywatelstwo' in A. Górńska, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce* (Instytut Spraw Publicznych 2019), 25.

⁷⁷⁶ Supreme Audit Office, 'Wystąpienie pokontrolne. Egzamininy 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>. Similar information for the years 2022 and 2023 is not available.

⁷⁷⁷ P. Kaźmierkiewicz, 'Obywatelstwo' in A. Górńska, 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.

⁷⁷⁸ Article 36(1) Law on Polish Citizenship.

⁷⁷⁹ Article 10(4) Law on Polish Citizenship.

⁷⁸⁰ Article 21(1) Law on Protection.

- 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 third-country national no longer requires protection.⁷⁸¹

The deprivation procedure is initiated by the Head of the Office for Foreigners *ex officio* or on other authorities' demand.⁷⁸² 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.⁷⁸³ 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 third-country national can also present arguments in writing.⁷⁸⁴

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 third country national 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 third-country national 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 third-country national's demand. During that period a third-country national stays irregularly in Poland, so return proceedings may be initiated against him/her and removal may be enforced.

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.⁷⁸⁵ Free legal assistance is only provided in the appeal proceedings; it does not include the first-instance procedure.⁷⁸⁶ Before the court, the third-country national can apply for free legal assistance by lawyer following the general rules (see [Legal Assistance](#)).

A third-country national 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.⁷⁸⁷

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 2023, the total number of persons deprived of international protection as a result of a cessation or withdrawal procedure was as follows:

⁷⁸¹ Article 22(1) Law on Protection.

⁷⁸² Article 54b Law on Protection.

⁷⁸³ Article 54a Law on Protection.

⁷⁸⁴ Article 54d(1) Law on Protection.

⁷⁸⁵ Article 69d(2) Law on Protection.

⁷⁸⁶ Article 69d Law on Protection.

⁷⁸⁷ Article 89l(1) and (3) Law on Protection.

Number of persons deprived of international protection (ceased and/or withdrawn)							
	2017	2018	2019	2020	2021	2022	2023
Deprivation of refugee status	0	11	6	12	4	9	8
Deprivation of subsidiary protection	80	157	100	95	32	33	67

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 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).⁷⁸⁸ 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).⁷⁸⁹ In 2023, refugee status was ceased or withdrawn for 8 persons (2 Russian citizens, 2 Egyptian citizens, 2 Syrian citizens and 2 Uzbek citizens), 67 beneficiaries had their subsidiary protection status ceased or withdrawn (including 63 Russian citizens, 2 Belarusian citizens, 1 Iraqi citizen and 1 Pakistani citizen).⁷⁹⁰ Statistical data for 2022 and 2023 provided by the Office for Foreigners did not allow to differentiate between cases in which the protection status had been ceased, or was withdrawn.

As regards the grounds for depriving international protection, the following cessation grounds were applied in 2023:

Grounds for cessation of international protection in 2023	
Cessation of refugee status	
The beneficiary voluntarily settled in the country, which he or she had left for fear of persecution.	1
The beneficiary voluntarily accepted the protection of a country he or she is a citizen of	7
The beneficiary can no longer, because the circumstances in connection with which he or she has been recognised as a refugee have ceased to exist, continue to refuse to avail himself or herself of the protection of the country of nationality	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 third-country national no longer requires protection	63

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. In 2023, 113 Russian citizens were granted refugee status in Poland, and 79 – received subsidiary protection.⁷⁹¹ Approx. 100 Russian citizens obtained international protection in Poland in 2022,

⁷⁸⁸ Information provided by the Office for Foreigners since 2019.

⁷⁸⁹ Information provided by the Office for Foreigners, 3 February 2023.

⁷⁹⁰ Information provided by the Office for Foreigners, 16 February 2024.

⁷⁹¹ Information provided by the Office for Foreigners, 16 February 2024.

89 in 2021, 66 in 2020.⁷⁹² 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 third-country national no longer required protection (in 150 cases in 2018, 97 in 2019, 94 in 2020 and 28 in 2021).⁷⁹³ Based on data received for 2022, it is not possible to establish how many similar cases were registered throughout the year. In 2023, 63 Russian citizens were deprived of subsidiary protection due to the change of circumstances.⁷⁹⁴

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.⁷⁹⁵ The finding is confirmed by the SIP. According to the organisation, 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.⁷⁹⁶

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 to Chechnya.⁷⁹⁷ 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.⁷⁹⁸

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](#)).⁷⁹⁹ Data shared by the Office for Foreigners does not allow to determine how many Russian citizens were deprived international protection for these reasons in 2022-2023.

⁷⁹² 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>.

⁷⁹³ Information provided by the Office for Foreigners, 15 January 2019, 22 January 2020 and 26 January 2021.

⁷⁹⁴ Information provided by the Office for Foreigners, 16 February 2024.

⁷⁹⁵ 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>.

⁷⁹⁶ 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.

⁷⁹⁷ Supreme Administrative Court, Judgment of 5 July 2022, no. II OSK 1868/21, available here in Polish: <http://bit.ly/3K2hvvK>.

⁷⁹⁸ 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>.

⁷⁹⁹ Information provided by the Office for Foreigners, 15 January 2019, 22 January 2020 and 26 January 2021.

In 2023, a case concerning a Russian national deprived of subsidiary protection was communicated by the ECtHR (no. 9323/19, N.M. v. Poland). The return decision was issued based on the fact that the military conflict in Chechnya finished and the applicant was considered a security threat. For the latter reason, the appeal against the return decision did not entail a suspensive effect. Relying on Article 13 of the ECHR, in conjunction with Article 3 of the ECHR, the applicant complained about the lack of an effective remedy with a suspensive effect to appeal against the decision ordering his return to Russia.

In 2023, the Refugee Board rejected the appeals of 28 persons deprived of international protection (mostly Russian nationals – 22). 16 complaints to the court were submitted.⁸⁰⁰ Only in one case, the court revoked the second-instance and the first-instance decision, in the remaining 13 cases decided in 2023 it dismissed the beneficiaries' complaints.⁸⁰¹

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:⁸⁰²

- 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:⁸⁰³

- a. It has been revealed that a third-country national 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 third-country national 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 third-country national 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 third-country national has committed a crime in Poland or an act outside Poland which is a crime according to Polish law;
- e. There are serious reasons to believe that a third-country national 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.⁸⁰⁴

⁸⁰⁰ Information from the Refugee Board, 3 April 2024.

⁸⁰¹ Information provided by the Voivodeship Administrative Court in Warsaw, 12 February 2024.

⁸⁰² Article 21(1) Law on Protection.

⁸⁰³ Article 22(1) Law on Protection.

⁸⁰⁴ Article 22(4) Law on Protection.

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 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).⁸⁰⁵ 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).⁸⁰⁶ In 2023, 8 persons had their refugee status ceased or withdrawn (2 Russian citizens, 2 Egyptian citizens, 2 Syrian citizens and 2 Uzbek citizens). 67 beneficiaries had their subsidiary protection status ceased or withdrawn (including 63 Russian citizens, 2 Belarusian citizens, 1 Iraqi citizen and 1 Pakistani citizen).⁸⁰⁷ Statistics for 2022 and 2023 provided by the Office for Foreigners did not allow to differentiate between cases in which the protection status had been ceased, or was withdrawn.

Grounds for withdrawal of international protection in 2023	
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	1
Withdrawal of subsidiary protection	
There are serious reasons to believe that a third-country national poses a threat to state security or to the safety of society.	15 ⁸⁰⁸

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](#).

⁸⁰⁵ Information provided by the Office for Foreigners since 2019.

⁸⁰⁶ Information provided by the Office for Foreigners, 3 February 2023.

⁸⁰⁷ Information provided by the Office for Foreigners, 16 February 2024.

⁸⁰⁸ The data provided by the Office for Foreigners are inconclusive. It is 15 or more (26).

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?
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.⁸⁰⁹

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.⁸¹⁰ However, for 2022 the Office for Foreigners shared that 103 family members received a temporary stay in Poland.⁸¹¹ Out of 155 persons who submitted application for family reunification, 41 were recognised as refugees and 62 were beneficiaries of subsidiary protection.

⁸⁰⁹ HFHR, *Family Reunification of Foreigners in Poland, Law and Practice*, June 2016, available at: <http://bit.ly/2ILG11B>, 19-20.

⁸¹⁰ A. Kulesa, 'Łączenie rodzin' in A. Górska, M. Koss-Goryszewska, J. Kucharczyk (eds), *W stronę krajowego mechanizmu ewaluacji integracji: Diagnoza sytuacji beneficjentów ochrony międzynarodowej w Polsce* (Instytut Spraw Publicznych 2019), 9.

⁸¹¹ Information from the Office for Foreigners, 3 February 2023.

Family reunification of persons granted international protection was one of the seven main requests presented by SIP to the new government in December 2023.⁸¹² The main challenges identified by this NGO are:

- ❖ conditions of health insurance, stable income and place of residence applicable towards BIPs after 6 months deadline;
- ❖ narrow definition of family member. In the view of the authors persons that should be included are: partners without formal marriage (partners staying in religious marriage or civil partners), parents of BIPs and their adult children.

The obstacle observed in previous years related to the fact that the procedure was lengthy, complicated and costly (submitting and translating official documents, journey to Poland, to Polish consulate, paying several visits to the consulate, getting a visa).⁸¹³ The CJEU judgement from 9 March 2023 in the case C-1/23 PPU Afrin is not expected to have significant impact on the family reunification procedure in Poland, because the application for family reunification is submitted by BIP in the territory of Poland, not by their family members staying outside.

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.

Individuals 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 international protection beneficiaries are also entitled to social benefits. They also are entitled to be covered by the Individual Integration Programme (see [Individual Integration Programme \(IPI\)](#)) provided that a relevant application is submitted with one of the Poviats Family Support Centres (*powiatowe centra pomocy rodzinie*). The application must be submitted within 60 days from the date when the temporary residence permit is granted.

In the first half of 2023, 304 family members of recognised refugees and beneficiaries of subsidiary protection (holders of temporary residence permit) received the support of 2,111,136 PLN in social welfare, including for integration programs.⁸¹⁴

C. Movement and mobility

1. Freedom of movement

Refugees and subsidiary protection beneficiaries enjoy 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.

⁸¹² SIP, 7 zmian, które należy wprowadzić w prawie migracyjnym – piszemy do nowego rządu, 21 December 2023, available at: <https://bit.ly/4btuHWt>.

⁸¹³ HFHR, *Family Reunification of Foreigners in Poland, Law and Practice*, June 2016, available at: <http://bit.ly/2ILG11B>, 21.

⁸¹⁴ Information provided by the Ministry of Family, Labour and Social Policy, 12 February 2024.

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 organise 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](#)).⁸¹⁵ 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.

2. Travel documents

Refugees obtain travel documents mentioned in the Refugee Convention, which are valid for 2 years from the day of issuance.⁸¹⁶ Subsequent travel documents are issued upon request.⁸¹⁷ 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.⁸¹⁸ 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.⁸¹⁹ In case of *force majeure* preventing a third-country national to receive a document in person, the refugee travel document can be received by a proxy.⁸²⁰ Third-country nationals are obliged to give their fingerprints any time they apply for a refugee travel document.⁸²¹ 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 third-country nationals. The application for the document should be submitted to a Voivode having jurisdiction over the current place of stay of a third-country national and requires a fee of PLN 350 / EUR 82 (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 164) for a new one. If it happens again, they must pay PLN 1,050 (EUR 246).⁸²²

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.⁸²³ 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

⁸¹⁵ Article 94 of Law of 12 March 2004 on social assistance.

⁸¹⁶ Article 89i(1) and (3) Law on Protection.

⁸¹⁷ Article 89m Law on Protection.

⁸¹⁸ Article 89n(1) Law on Protection.

⁸¹⁹ Article 89ib(1) and (2) Law on Protection.

⁸²⁰ Article 89ib(4) Law on Protection.

⁸²¹ Articles 89i(4) and 89m Law on Protection.

⁸²² Office for Foreigners, 'Nowe stawki opłat za dokumenty wydawane cudzoziemcom', 29 July 2022, available in Polish at: <http://bit.ly/3IPTv73>.

⁸²³ Article 252(3) Law on Foreigners. See also CPPHN, 'Polski dokument podróży dla cudzoziemca', 2023, available in Polish here: <https://bit.ly/3U3tUWz>.

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 third-country national. 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 third-country national 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 whether the third-country national's possible contact with the authorities of the country of origin may have a negative impact on his situation.”⁸²⁴

The procedure for obtaining the Polish travel document should last one month or two if it is a complicated case. In practice, however, it may last longer.⁸²⁵

Refusal to issue a Polish travel document can be appealed to the Head of the Office for Foreigners.

The Polish travel document for a third-country national entitles to multiple border crossings and is valid for 1 year.⁸²⁶ 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.⁸²⁷

	Number of Refugee Convention travel documents (issued to recognised 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
2023	1,311	321

Source: Authors of this report based on an analysis of the statistics shared by the Office for Foreigners

⁸²⁴ 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).

⁸²⁵ See e.g. Voivodship Administrative Court in Wrocław, judgment of 25 January 2024, no. II SAB/Wr 408/23, available in Polish at: <https://bit.ly/3U3uaVx>, finding that the length of the proceedings concerning a Polish travel document for foreigners were excessive.

⁸²⁶ Article 253 Law on Foreigners.

⁸²⁷ Article 254 Law on 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 2023: | Not available |

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”.⁸²⁸ 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.⁸²⁹

Beneficiaries of international protection are allowed to stay in the centres for 2 months after being granted a positive decision.⁸³⁰ 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.⁸³¹ General conditions to obtain housing under the law are hard to fulfil for beneficiaries because of their relatively short stay in Poland and mobility.⁸³²

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 2011.⁸³³ 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.⁸³⁴ The program “protected flat” is still running but there are other vulnerable groups than BIPs eligible for it.⁸³⁵

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 Centre in cooperation with Warsaw City Hall’s Housing Office and Assistance and Social Projects Office. Beneficiaries of protection 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 Centre can issue up to 20 recommendations per year).⁸³⁶ Annually, a special qualification commission,

⁸²⁸ Article 52(1) of the Constitution of the Republic of Poland.

⁸²⁹ 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*].

⁸³⁰ Article 74(1)2 Law on Protection.

⁸³¹ Maryla Koss-Goryszewska ‘Mieszkalnictwo’ 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), available (in Polish) at: <https://bit.ly/2w3NkBS>, 27.

⁸³² *Ibidem*, 29.

⁸³³ 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>

⁸³⁴ 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.

⁸³⁵ Information from Warsaw municipality website from 23 August 2021, available at: <https://bit.ly/3UzhS5Z>.

⁸³⁶ 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>

which consists of five representatives (two from the Warsaw Family Support Centre, 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 programme was still running in 2023.⁸³⁷

The procedure is not only aimed at supporting persons 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.⁸³⁸

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, in 2018 there was a shortage of about 2.1 million houses in Poland.⁸³⁹ 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.⁸⁴⁰

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.⁸⁴¹

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.⁸⁴² Stereotypes and negative attitude towards foreigners prevail. Finding accommodation for large families is even more challenging. IPI is not tailored to tackle these problems.⁸⁴³

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.⁸⁴⁴ 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.⁸⁴⁵

⁸³⁷ Information from WCPR website, available at: <https://bit.ly/4b813q6>.

⁸³⁸ D. Wach, M. Pachocka, *Polish Cities and Their Experience in Integration Activities – The Case of Warsaw*, 2022, available at: <https://bit.ly/3KHvuZks>, 98.

⁸³⁹ 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>.

⁸⁴⁰ 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>, 158.

⁸⁴¹ Ibidem, 147.

⁸⁴² 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>, 30.

⁸⁴³ 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/3s3hZXX>.

⁸⁴⁴ 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.

⁸⁴⁵ Ibidem, 136.

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, fuelled 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.⁸⁴⁶

Since 2022 finding housing was additionally complicated by the number of arrivals from Ukraine, which made it nearly impossible to rent apartments in larger cities. (see section on housing in [TP report](#)). As of 2023 the research confirms, that there are no governmental housing programmes for third country nationals and no specific legislation governing their housing in Poland. Due to the lack of social housing, many migrants, refugees and other beneficiaries of international protection have become homeless because they cannot afford free market rent levels.⁸⁴⁷ Other reports from 2023 enumerate challenges such as insufficient legal protection of owners' rights, which discourages to rent accommodation to foreigners and limited resources of affordable housing, which results in competing with the rest of the society and possible conflicts.⁸⁴⁸

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 regard. Access to employment is not limited to certain sectors.

Beneficiaries of international protection face many challenges in accessing 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

⁸⁴⁶ 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>, 4.

⁸⁴⁷ Council of Europe, European Commission Against Racism and Intolerance (ECRI), Report on Poland, sixth monitoring cycle, September 2023, available at: <https://bit.ly/4az8MgJ>, 23.

⁸⁴⁸ Programme of Integration of Immigrants in the Malopolska Region, 'Open Malopolska', *Program integracji imigrantów w województwie małopolskim „Małopolska otwarta”*, 24 October 2023, available (PL) at: <https://bit.ly/3wnhZtB>, 14.

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.

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 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. In 2021, it was reported that only around 35% of beneficiaries of international protection attended 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

⁸⁵³ Mikołaj 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), 32.

⁸⁵⁴ Mikołaj Pawlak, 'Kwalifikacje zawodowe' 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), 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>

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>.

On the contrary, in 2023 anti-discrimination measures in labour context were considered adequate. It was found for relatively easy for claimants, including foreigners, to assert discrimination in the context of court proceedings; however, very few employees come forward with complaints.⁸⁶¹

In general, the integration of refugees has not been perceived as a holistic process by the government. As a result, refugees very often end up living in poverty, and are left in a vicious circle of dependence on social welfare.⁸⁶² 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,⁸⁶³ but overall Poland lacks an official integration strategy.

Despite the absence of a national migration and integration framework, there are some truly recommendable initiatives in this area at the local level. Apart from Warsaw, a notable example is Gdansk. In 2015-2016, the City prepared an immigrant integration model, which still successfully serves as a basis for the integration of foreigners in the municipality. The model foresees actions in support of integration in the areas of education, local communities, culture, health, employment, social assistance and housing, as well as against violence and discrimination. Furthermore, Gdansk created an Immigrant Council, a consultative body consisting of EU and third country immigrants to advise the City in immigration and integration matters. It convenes about once a month.⁸⁶⁴

On 24 October 2023, the Board of Directors of the region of Malopolska adopted the *Programme of Integration of Immigrants in the Malopolska Region ('Open Malopolska')*. This is the first document of its kind officially adopted at the regional level in Poland. The main goal of the programme is to strengthen the integration of immigrants in the Malopolska region. The programme was developed collaboratively, involving workshops with more than 200 representatives of government and local administrations, civil society organisations, immigrant communities, employers, educational and cultural institutions and academic and research communities. The implementation of the programme will be collaboratively evaluated every three years.⁸⁶⁵ The Programme enumerates the main challenges with regard to access to labour market of foreigners in Poland in general, which are: language barrier, long and complicated process of recognition of qualification or limitations in self-employment. As for the recognition of qualification the authors observe, that some facilitations in this regard cannot limit the verification of knowledge and experience. Ensuring equivalence in qualification acquired in the country of origin and in the host country constitute a basis for building trust to foreign employees by service receivers and by employers.⁸⁶⁶

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.

⁸⁶¹ Council of Europe, European Commission Against Racism and Intolerance (ECRI), Report on Poland, sixth monitoring cycle, September 2023, available at: <https://bit.ly/4az8MgJ>, p.23.

⁸⁶² RESPOND Poland Policy Brief, Adult Refugees' Integration in Poland, 2021, <https://bit.ly/3vrD0QZ>.

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>, 10.

⁸⁶⁴ Council of Europe, European Commission Against Racism and Intolerance (ECRI), Report on Poland, sixth monitoring cycle, September 2023, available at: <https://bit.ly/4az8MgJ>, 22.

⁸⁶⁵ European Website on Integration, Poland: Adoption of first regional strategy for migrant integration, 24 October 2023, available at: <https://bit.ly/3UPq4Ar>.

⁸⁶⁶ Programme of Integration of Immigrants in the Malopolska Region, 'Open Malopolska', *Program integracji imigrantów w województwie małopolskim „Małopolska otwarta”*, 24 October 2023, available (PL) at: <https://bit.ly/3wnhZtB>, 11.

The situation of IP beneficiaries generally does not differ from the situation of asylum seekers (see above [Reception Conditions: Access to education](#)) 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 third country national 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.⁸⁶⁷ The Ministry of Education confirmed that such reports are not publicly available.⁸⁶⁸

As research shows, even though there are instruments stipulated by the law designed for migrant children,⁸⁶⁹ such as additional Polish language classes, compensatory classes, preparatory classes and cross-cultural teachers' assistants, due to insufficient funding their implementation is often inadequate.⁸⁷⁰ 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.⁸⁷¹ 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.⁸⁷² Since 2022, the public debate on education for refugee children was mostly focused on the necessity to manage the arrival of a large number of children from Ukraine (see [TP report](#)). In 2023, the main problem identified in recent research regarding the education of foreign children was the shortage of Polish language classes, which were either not organised or not adapted to the needs of foreign students.⁸⁷³

Certain shortcomings – such as an insufficient number of teachers - emerged after the arrival of a larger number of foreign children in Polish schools after the outbreak of war in Ukraine. Another challenge regarded the fact that certain classes were only comprised of migrant children. Additionally, problems regarding the lack of monitoring of school attendance and limited cooperation between schools and parents were also observed.⁸⁷⁴

The main challenges for adults in education appeared to be learning Polish language and recognition of education certificates obtained in the countries of origin.⁸⁷⁵ 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). The absence of relevant document for refugees does not hinder their ability to pursue studies, as there is an administrative recognition procedure specifically designed for these cases.⁸⁷⁶

⁸⁶⁷ 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.

⁸⁶⁸ Information from the Ministry of Education, 12 February 2024.

⁸⁶⁹ Council of Europe, European Commission Against Racism and Intolerance (ECRI), Report on Poland, sixth monitoring cycle, September 2023, <https://rm.coe.int/sixth-ecri-report-on-poland/1680ac8c62>, 23.

⁸⁷⁰ 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.

⁸⁷¹ 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.

⁸⁷² 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.

⁸⁷³ Council of Europe, European Commission Against Racism and Intolerance (ECRI), Report on Poland, sixth monitoring cycle, September 2023, <https://rm.coe.int/sixth-ecri-report-on-poland/1680ac8c62>, 23.

⁸⁷⁴ Programme of Integration of Immigrants in the Malopolska Region, 'Open Malopolska', *Program integracji imigrantów w województwie małopolskim „Małopolska otwarta”*, 24 October 2023, available (PL) at: <https://bit.ly/3wnhZtB>, 13.

⁸⁷⁵ Ibidem.

⁸⁷⁶ Ibidem.

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.⁸⁷⁷ 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.⁸⁷⁸

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 (EUR 181) (for a single person), or PLN 660 (EUR 154) (for a person in the family).⁸⁷⁹ 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.⁸⁸⁰

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 PLN 674 (EUR 157) or PLN 764 (EUR 178)⁸⁸¹ 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.

⁸⁷⁷ Ibidem.

⁸⁷⁸ Ibidem, 131.

⁸⁷⁹ Since 1 January 2022.

⁸⁸⁰ Ministry of Family, Work and Social Policy, Information available (PL) at <https://bit.ly/41m2U4M>.

⁸⁸¹ Ministry of Family, Work and Social Policy, Information, available (in Polish) at: <https://bit.ly/38lyKOM>.

Furthermore, beneficiaries of international protection have a right to apply for special financial support under the government “800+ 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.

In the first half of 2023, 2,404,544 PLN was spent on different kinds of social welfare for recognised refugees and 14,124,744 PLN was spent for beneficiaries of subsidiary protection.⁸⁸² 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 367 families (816 persons) of recognised refugees in the first half of 2023 and 1,420 families (2,587 persons) under subsidiary protection.⁸⁸³

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 Poviats (starosta) through the PCPR within 60 days from the date beneficiaries of international protection received a decision on 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.⁸⁸⁴ 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 721 (EUR 168), 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.

Beneficiaries of international protection are entitled to receive:

1) during the first 6 months of the integration program:

- ❖ up to PLN 1376.00 (EUR 322) per month - for a single person;
- ❖ up to PLN 963.20 (EUR 225.5) per person per month - in a 2-person family;
- ❖ up to PLN 825.60 (EUR 193) per person per month - in a 3-person family;
- ❖ up to PLN 688 (EUR 161) per month per person - for a family of four and more.

⁸⁸² Ministry of Family, Labour and Social Policy, 12 February 2024.

⁸⁸³ Information provided by the Ministry of Family, Labour and Social Policy, 12 February 2024.

⁸⁸⁴ SIP, We present our comments to the European Commission Against Racism and Intolerance, June 2022, available (EN) at: <https://bit.ly/3LNUIoo>.

2) in the period from 7 to 12 months of the integration program:

- ❖ up to PLN 1238.40 (EUR 290) per month - for a single person;
- ❖ up to PLN 866.88 (EUR 203) per person per month - in a 2-person family;
- ❖ up to PLN 743.04 (EUR 174) per person per month - in a 3-person family;
- ❖ up to PLN 619 (EUR 145) per month per person - for a family of four and more.⁸⁸⁵

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 “800+” child benefit. The need for the entire family to reside in Poland may also pose difficulties.⁸⁸⁶ According to the NIEM report,⁸⁸⁷ the regulations guiding the IPI 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.⁸⁸⁸ 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.⁸⁸⁹ According to SIP, Nomada and NIEM reports,⁸⁹⁰ 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.⁸⁹¹

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.⁸⁹² 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.⁸⁹³

⁸⁸⁵ 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>.

⁸⁸⁶ 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>.

⁸⁸⁷ NIEM diagnosis of the situation of beneficiaries of international protection in Poland, 2019, available (EN) at: <https://bit.ly/3HYgWTs>.

⁸⁸⁸ 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>.

⁸⁸⁹ Ibidem.

⁸⁹⁰ 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>.

⁸⁹¹ SIP, *Komentujemy propozycje zmian w ustawie o pomocy społecznej*, available (in Polish) at: <http://bit.ly/3uVH2yi>.

⁸⁹² Lukaszewicz, K., 'Exile to Poverty: Policies and Poverty Among Refugees in Poland', *International Migration Vol. 55 (6) 2017*, 65.

⁸⁹³ 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>.

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).⁸⁹⁴

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.⁸⁹⁵

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.⁸⁹⁶

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.⁸⁹⁷

The main issue concerning access to healthcare are linguistic and cultural barriers.⁸⁹⁸ Access to interpretation in the health care system is not available at all.⁸⁹⁹ 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.⁹⁰⁰

⁸⁹⁴ 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.

⁸⁹⁵ Article 27(1) and (3) Law on healthcare services financed from public funds.

⁸⁹⁶ 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.

⁸⁹⁷ SIP, *Opieka medyczna dla kobiet w okresie porodu i pólgu oraz ich dzieci*, 10 May 2021, <https://bit.ly/3vuhsTH>.

⁸⁹⁸ 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.

⁸⁹⁹ 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.

⁹⁰⁰ 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.

Researchers reported on episodes of discrimination and unjust treatment of international protection beneficiaries while accessing medical services.⁹⁰¹

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.⁹⁰²

Some recurring issues in 2023 include - despite the abovementioned language and cultural barrier – differences in approach to medical procedures in the country of origin and in the host country.⁹⁰³

⁹⁰¹ 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.

⁹⁰² 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.

⁹⁰³ Programme of Integration of Immigrants in the Malopolska Region, 'Open Malopolska', *Program integracji imigrantów w województwie małopolskim „Małopolska otwarta”*, 24 October 2023, available (PL) at: <https://bit.ly/3wnhZtB>, 13.

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)