



Input by civil society to the 2022 Asylum Report

Dear Colleagues,

The production of the *Asylum Report 2022* is currently underway. The annual [Asylum Report series](#) present a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, UNHCR and researchers. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policy or practice in 2021 (and early 2022) by topic as presented in the online survey.

Please note that the Asylum Report does not seek to describe national systems in detail but rather to present key developments of the past year, including improvements and challenges which remain. Your input can cover practices of a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

All submissions are publicly accessible. For transparency, 2022 contributions will be published on the EUAA webpage. For reference, contributions to the 2021 Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EUAA's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

*Please submit your contribution to the 2022 Asylum Report by **Monday, 21 February 2022**.*





Instructions

Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

- ✓ New developments and improvements in 2021 and new or remaining challenges; and
- ✓ Changes in policies or practices, transposition of legislation or institutional changes during 2021.

Please ensure that your responses remain within the scope of each section. Do not include information that goes beyond the thematic focus of each section or is not related to recent developments

Contributions by topic

1. Access to territory and access to asylum procedures (including first arrival to territory and registration, arrival at the border, application of the non-refoulement principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

Access of asylum-seekers to the territory of Poland is still restricted by the regulations of domestic law. In force remains *the regulation of the Ministry of Interior and Administration of 13 March 2020 on the temporary suspension or limitation of border traffic at specific border crossing points*, stating that persons intending to apply for asylum are not included as persons allowed to enter the Polish territory¹. Moreover, the regulation was further amended, which was aimed at legalizing of pushback procedure and entered into force on 21 August 2021 (see point 5 below).

¹ Helsinki Foundation for Human Rights | Helsińska Fundacja Praw Człowieka. (2021). Input by civil society to the EASO Annual Report 2021. <https://easo.europa.eu/sites/default/files/Helsinki-Foundation-for-Human-Rights-Poland.docx>





In 2021 Belarus announced they will no longer stop immigrants from entering the EU territory². That resulted in an unprecedented number of people entering the territory of Poland from Belarus in an irregular manner³. According to the statistics of the Polish Border Guard, in 2021 the attempts of illegal crossings of the PL-BLR reached 39 670⁴. As the Polish Border Guard reports, some of the attempts were ‘prevented’⁵, and some of them resulted in arresting a number of migrants⁶.

The term ‘prevented’ is a euphemism used to describe pushbacks: situations, when the Polish Border Guard turn the migrants back to the border with Belarus. Because of the implemented pushback policy, some migrants were kept (*de facto*: detained) at the border with no possibility to move into the territory of neither Poland nor Belarus for many days⁷⁸; and some were returned to the border with Belarus after having been apprehended by the Polish forces further from the border, also after having been at first admitted to the Border Guard station for a number of hours⁹ and only then transported to the border¹⁰¹¹.

² Euronews. Belarus cuts cooperation on migration with EU over sanctions. (June 28, 2021). <https://www.euronews.com/my-europe/2021/06/28/belarus-cuts-cooperation-on-migration-with-eu-over-sanctions>

³ Straż Graniczna | Border Guards. (January 7, 2022). https://twitter.com/Straż_Graniczna/status/1479381593571708929

⁴ Straż Graniczna | Border Guards. (January 5, 2022). https://twitter.com/Straż_Graniczna/status/1478717305928491009

⁵ See for example: Straż Graniczna | Border Guards. (September 29, 2021). https://twitter.com/Straż_Graniczna/status/1443105528499122176

⁶ See for example: Straż Graniczna | Border Guards. (December 22, 2021). Sytuacja na polsko-białoruskim odcinku ochranianym przez POSG [Situation at the Polish-Belarusian border secured by the Podlaski Border Guard Branch]. <https://www.podlaski.strazgraniczna.pl/pod/aktualnosci/42756.Polsko-bialoruski-odcinek-granicy-panstwowej-nielegalna-migracja-w-liczbach.html>

⁷ Amnesty International. (2021). Sytuacja w Usnarzu Górnym. Raport z wizyty w dniu 24.08.2021 [Situation in Usnarz Górny. A report from a visit on August 24, 2021]. <https://amnesty.org.pl/wp-content/uploads/2021/09/Amnesty-International-Sytuacja-w-Usnarzu-G%C3%B3rnym-Raport-z-wizyty-24082021.pdf>

⁸ Wyborcza.pl. Białystok. (September 10, 2021). Drugi Usnarz pod Terespołem. Ponad 20 uchodźców, w tym kobiety i dzieci, koczują na polsko-białoruskiej granicy [Second Usnarz next to Terespol. Over 20 refugees, including women and children, stranded at the Polish-Belarusian border]. <https://bialystok.wyborcza.pl/bialystok/7.35241.27556047.drugi-usnarz-pod-terespolem-26-uchodzcow-w-tym-kobiety-i-dzieci.html>

⁹ TVN24. Polska. (September 28, 2021). Migranci na Podlasiu i działania Straży Granicznej. "Złapali się za ramiona, przytulili dzieci" [Migrants in Podlasie and actions of the Border Guard. "They caught each other's arms, hugged children"]. <https://tvn24.pl/polska/migranci-w-michalowie-interwencja-strazy-granicznej-5431669>. The material tells a story of a group of migrants (many of them children) detained for the entire day in Border Guard station in Michałowo on September 27, 2021, who were later pushed back to the border.

¹⁰ WP wiadomości. (October 12, 2021). Dzieci z Michałowa głodują na granicy. To już pewne. Rozmawialiśmy z członkami tej grupy [Children of Michałowo starving at the border. It is confirmed. We talked to members of the group]. <https://wiadomosci.wp.pl/dzieci-z-michalowa-dzis-w-nocy-gloduja-na-granicy-to-juz-pewne-rozmawialismy-z-czlonkami-tej-grupy-6693096370772640a>

¹¹ Testigo Documentary. (August 28, 2021). Push Back. <http://testigo.pl/pushback.pdf>. The report documents a group of migrants detained in the Border Guard station in Szudziałowo, who were subsequently returned to the border.





There are numerous reported cases of pushing back migrants who asked for asylum in the presence of the Polish Border Guard officers^{12 13 14 15 16 17}. A well-documented case regarded a group of Afghan migrants stranded at the border in Usnarz Górny, where the Polish authorities acted with a clear violation of the law¹⁸. On the Belarusian side, the group of asylum-seekers was prevented from returning to Belarus due to the consistent presence of Belarusian Border Guard officers. On the Polish side, they were surrounded by a cordon of the Polish Border Guard officers, later also by the barbed wire, preventing them from entering Poland. A report by Amnesty International proves that at least some of them were initially in Polish territory before being pushed back to Belarus by the Polish Border Guard¹⁹. The representatives of the Polish Ombudsman confirmed that the migrants declared their willingness to apply for international protection in the presence of the Polish officers²⁰. Despite that, for more than 2 months the Polish authorities did not accept asylum applications from anyone from the group. The Polish authorities also ignored an interim measure issued by the ECtHR, asking the Polish Government to provide the applicants with food, water, clothing, adequate medical care and, if possible, temporary shelter, and enable them to make contact with their lawyers²¹. After approximately two months, migrants from Usnarz Górny decided to try to enter Poland again and were again violently pushed back to Belarus²².

¹² InfoMigrants. (September 24, 2021). 'This is like death': Polish Border Guard pushbacks put migrants' lives at risk. <https://www.infomigrants.net/en/post/35219/this-is-like-death-polish-border-guard-pushbacks-put-migrants-lives-at-risk>

¹³ OKO.press. (August 30, 2021). Poprosili o ochronę, Straż Graniczna nocą wywiozła ich do lasu. „Uciekali przed zubrami” [They asked for protection, the Border Guard at night drove them back to the forest. They run away from bison]. <https://oko.press/poprosili-o-ochrone-straz-graniczna-noca-wywiozla-ich-do-lasu-uciekali-przed-zubrami/>

¹⁴ BBC News. (November 21, 2021). Poland border crisis: What happens to migrants who are turned away? <https://www.bbc.com/news/59348337>

¹⁵ Noizz.pl. (October 15, 2021). Kolejne kłamstwo SG? Dziecko z bandażem na oku miało trafić do ciepłego ośrodka, a jest w lesie [Another lie of the Border Guard? Child with a bandaged eye was supposed to be placed in warm centre, but she is in the forest]. <https://noizz.pl/spoleczenstwo/klamstwo-strazy-granicznej-dziecko-z-bandazem-na-ok-mialo-traffic-do-osrodka-a-jest-w/mteqgew>

¹⁶ Grupa Granica. (December 10, 2021). Humanitarian crisis at the Polish-Belarusian border. Report by Grupa Granica. <https://www.grupagranica.pl/files/Grupa-Granica-Report-Humanitarian-crisis-at-the-Polish-Belarusian-border.pdf>

¹⁷ Amnesty International. (December 20, 2021). Belarus/EU: New evidence of brutal violence from Belarusian forces against asylum-seekers and migrants facing pushbacks from the EU. <https://www.amnesty.org/en/latest/news/2021/12/belarus-eu-new-evidence-of-brutal-violence-from-belarusian-forces-against-asylum-seekers-and-migrants-facing-pushbacks-from-the-eu/>

¹⁸ Helsinki Foundation for Human Rights. (September 9, 2021). Legal Analysis of the Situation on the Polish-Belarusian Border. <https://www.hfhr.pl/wp-content/uploads/2021/09/Legal-analysis-ENG.pdf>

¹⁹ Amnesty International. (2021). Sytuacja w Usnarzu Górnym. Raport z wizyty w dniu 24.08.2021 [Situation in Usnarz Górny. A report from a visit on August 24, 2021]. <https://amnesty.org.pl/wp-content/uploads/2021/09/Amnesty-International-Sytuacja-w-Usnarzu-G%C3%B3rnym-Raport-z-wizyty-24082021.pdf>

²⁰ Ombudsman. (August 20, 2021; October 19, 2021). <https://bip.brpo.gov.pl/pl/content/RPO-obywatele-afganistanu-deklaruje-zamiar-ubiegania-sie-o-ochron%C4%99-mi%C4%99dzynarodow%C4%85-na-terytorium-rp-premier>

²¹ European Court of Human Rights. (September 28, 2021). <https://hudoc.echr.coe.int/app/conversion/pdf/?library=ECHR&id=003-7134761-9667819&filename=Notification%20and%20application%20of%20interim%20measures%20in%20the%20case%20ORA.%20and%20others%20v.%20Poland%20lodged%20by%2032%20Afghans.pdf>

²² OKO.press. (January 16, 2022). Pamiętajcie o Usnarzu? Tkwią uwięzieni na granicy wścieci co się z nimi stało? [Remember Usnarz? Stranded at the border for over two months. Do you know what happened to them?]. <https://oko.press/pamietacie-o-usnarzu-tkwili-uwiezieni-na-granicy-wiecie-co-sie-z-nimi-stalo/>





Since Belarus does not agree to take back migrants, pushback operations do not take place within the official border crossings, but at the so-called 'green border'. Once the pushed back migrants find themselves on the territory of Belarus, they are forced by the Belarusian Border Guard to enter Poland again. As a result, migrants are pushed back multiple times from one side of the Polish-Belarusian border to another²³. Many of them are in critical health condition²⁴, at least 21 lost their lives²⁵. In some cases when migrants needed medical assistance, the dispatchers refused to send the paramedics, arguing that only the Border Guard officers were entitled to undertake any binding decisions in respect to migrants²⁶. In other cases, migrants were admitted to the hospital, but were signed out soon afterwards and pushed back to the border^{27 28 29}.

On September 2, 2021, the President of the Republic of Poland issued a regulation³⁰, further extended on October 1, 2021³¹, implementing the state of emergency along the whole PL-BY border that lasted from September 2 to December 2, 2021. Humanitarian organizations, media, activists and medics were all banned from entering the zone approximately 3 km away from the border with Belarus. According to the Polish Constitution, it was not possible to prolong the state of emergency beyond 60 days. To bypass the limitations, the Polish government adopted new provisions, amending the act

²³ Human Rights Watch. (November 24, 2021). "Die Here or Go to Poland". Belarus' and Poland's Shared Responsibility for Border Abuses. <https://www.hrw.org/report/2021/11/24/die-here-or-go-poland/belarus-and-polands-shared-responsibility-border-abuses>

²⁴ Grupa Granica. (December 10, 2021). Humanitarian crisis at the Polish-Belarusian border. Report by Grupa Granica. p. 23, <https://www.grupagranica.pl/files/Grupa-Granica-Report-Humanitarian-crisis-at-the-Polish-Belarusian-border.pdf>

²⁵ InfoMigrants. (January 10, 2022). Medics leave Poland-Belarus border without reaching migrants. <https://www.infomigrants.net/en/post/37738/medics-leave-polandbelarus-border-without-reaching-migrants>

²⁶ Wyborcza.biz. (September 23, 2021). Operator 112 odmówił przyjęcia zgłoszenia o wyziębionych nastolatkach z Kongo. "Nie ma znaczenia, czy umiera, czy nie umiera" [Dispatcher refused to register a request to rescue chilled teenagers from Kongo. 'It doesn't matter if they die or not']. <https://wyborcza.biz/biznes/7.177151.27606924.wyziebione-nastolatki-z-konga-dyspozytor-112-odmowil-przyjecia.html>

²⁷ Grupa Granica. (December 10, 2021). Humanitarian crisis at the Polish-Belarusian border. Report by Grupa Granica. p. 14, <https://www.grupagranica.pl/files/Grupa-Granica-Report-Humanitarian-crisis-at-the-Polish-Belarusian-border.pdf>

²⁸ Wyborcza.pl. (February 11, 2022). Były wojewoda podlaski ratuje ludzi w lesie. "Na tym pograniczu runęły wszystkie prawa" [Former Chief of Podlaskie Voivodship rescues people in the forest. "At this border zone all rights collapsed"]. <https://bialystok.wyborcza.pl/bialystok/7.35241.28099243.granica-polsko-bialoruska-pogranicze-bezprawia.html>. Maciej Żywno, a volunteer paramedic, explains how he witnessed a situation when a migrant rescued from advanced hypothermia was admitted to hospital for 6 hours, only to be later pushed back at the border.

²⁹ BBC News. (November 21, 2021). Poland border crisis: What happens to migrants who are turned away? <https://www.bbc.com/news/59348337>

³⁰ Rozporządzenie Prezydenta Rzeczypospolitej Polskiej z dnia 2 września 2021 r. w sprawie wprowadzenia stanu wyjątkowego na obszarze części województwa podlaskiego oraz części województwa lubelskiego. *Ordinance of the President of the Republic of Poland of September 2, 2021, establishing a state of emergency on the territory of parts of the podlaskie and lubelskie voivodship.* <https://www.dziennikustaw.gov.pl/D2021000161201.pdf>

³¹ Rozporządzenie Prezydenta Rzeczypospolitej Polskiej z dnia 1 października 2021 r. w sprawie przedłużenia stanu wyjątkowego na obszarze części województwa podlaskiego oraz części województwa lubelskiego. *Ordinance of the President of the Republic of Poland of October 1, 2021, regarding prolongation of a state of emergency on the territory of parts of the podlaskie and lubelskie voivodship.* <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20210001788/O/D20211788.pdf>





on the protection of the state border³². Because of the introduced (and still applicable) ban, the migrants who find themselves in a 'restricted zone' are still deprived of receiving help from humanitarian organizations (such as MSF³³, Polish Red Cross³⁴, Polish Humanitarian Action³⁵), which could provide them with water, food, clothes, medical assistance. The entry ban also prevents conducting any independent monitoring.

On January 18, 2022, the Polish Supreme Court ruled that the deprivation of the possibility of staying in the entire territory of the zone of the state of emergency, applying to almost all persons who were not residents, was in breach of the Polish Constitution and constituted an unallowed restriction of civil rights. Thus, such limitations should be considered illegal. The Supreme Court further added that it was illegal to restrict the activities of the Polish Red Cross by prohibiting it from providing humanitarian aid in any part of the territory of the Republic of Poland. However, until now the Polish Red Cross wasn't allowed to enter the zone at the border.

The abovementioned violations of human rights in the border area were witnessed by the Commissioner for Human Rights during her mission to Poland. She called to 'end human suffering and violations of human rights'³⁶ and she described in details, among others: the lack of access to asylum procedures, existing pushback policy, brutality used against migrants by the Belarusian officers, lack of organized humanitarian assistance provided by the Polish authorities to migrants entering Polish territory, stigmatization of migrants, refugees, and humanitarian activists, the introduction of the 'exclusion zone' along the border for non-governmental actors³⁷.

³² Commissioner for Human Rights. (December 1, 2021). New legislation perpetuates restrictions and obstacles to protection of human rights on Poland's eastern border. <https://www.coe.int/en/web/commissioner/-/new-legislation-perpetuates-restrictions-and-obstacles-to-protection-of-the-human-rights-of-migrants-and-refugees-on-poland-s-eastern-border>

³³ InfoMigrants. (January 10, 2022). Medics leave Poland-Belarus border without reaching migrants. <https://www.infomigrants.net/en/post/37738/medics-leave-polandbelarus-border-without-reaching-migrants>

³⁴ OKO.press. (October 20, 2021). Co robi PCK? Dużo, ale na granicę go nie wpuszczają, jak innych społeczników. [What is the Polish Red Cross doing? A lot, but is not allowed to access the border, like other activists]. <https://oko.press/co-robi-pck-duzo-ale-na-granice-go-nie-wpuszczaja/>

³⁵ Newseria. (November 24, 2021). Organizacje humanitarne nie ustają w apelach o dostęp do strefy stanu wyjątkowego. [Humanitarian organisations do not cease in calling for access to the emergency zone]. <https://biznes.newseria.pl/news/organizacje-humanitarne.p1526867323>

³⁶ Commissioner for Human Rights. (November 19, 2021). Commissioner calls for immediate access of international and national human rights actors and media to Poland's border with Belarus to end human suffering and violations of human rights. <https://www.coe.int/en/web/commissioner/-/commissioner-calls-for-immediate-access-of-international-and-national-human-rights-actors-and-media-to-poland-s-border-with-belarus-in-order-to-end-hu>

³⁷ Commissioner for Human Rights. (January 27, 2022). Third party intervention by the Council of Europe Commissioner for Human Rights under Article 36, paragraph 3, of the European Convention on Human Rights. R.A. and others v. Poland (no. 42120/21). <https://rm.coe.int/third-party-intervention-before-the-european-court-of-human-rights-in-/1680a5527a>





Currently, the aim of the Polish decision-makers is to further militarize the border with Belarus by creating a border fence³⁸ and equipping the Border Guards with additional resources³⁹.

In 2021, according to the statistical data provided by the Head of the Office for Foreigners, the number of registered asylum applications was three times higher than in the previous year and amounted to 4 513 applications, covering 7 700 applicants. Most asylum-seekers were Belarusians (29%), as a result of political migration; then Afghans (23%), mostly evacuated coworkers of the Polish troops in Afghanistan; and Iraqis (18%), the majority of whom entered Poland through Belarus.

It is worth noting, that while 99,74% of Belarusian applicants and 99,08% of Afghan applicants were granted one of the forms of international protection, only 1 Iraqi was issued a positive decision, as contrasted with 268 negatives. Thus, the asylum-seekers from Belarus and evacuees from Afghanistan seem to be the main groups of migrants, to which access to the territory of Poland and to the asylum proceedings are significantly easier than to the others.

Furthermore, the lack of effective access to asylum procedures on the Polish-Belarusian border crossing points is additionally proven by the official Border Guard statistics. Between 1 January 2021 and 31 August 2021 only 22 asylum applications were registered at all Polish-Belarusian border crossing points. In contrast, in 2019 only at the border crossing point in Terespol 540 asylum applications were registered.⁴⁰ The dramatic drop in the number of registered asylum applications indicates that the state policy of not receiving applications for international protection from persons presenting themselves at the Polish-Belarusian border intensifies.

2. Access to information and legal assistance (including counselling and representation)

Taking into consideration the very nature of pushbacks, migrants who fall victim to that practice are often deprived of the right to information and legal assistance. As no formal legal proceedings are initiated, not even the slightest guarantees are applied and migrants are not informed about their rights. Even if the semi-formal proceedings related to issuing a 'removal order' take place (see point 5 below), the guarantees that normally should apply during administrative proceedings (especially during proceedings on the obligation to return, such as obligatory information about the right to apply for asylum, as provided for in Article 304 of the Act on foreigners), are not respected.

³⁸ Euronews. (January 26, 2022). Poland starts construction of €350 million border fence with Belarus. <https://www.euronews.com/2022/01/26/poland-starts-construction-of-350-million-border-fence-with-belarus>

³⁹ Straż Graniczna | Border Guard. (January 15, 2022). https://twitter.com/Straż_Graniczna/status/1482286117433053189

⁴⁰ Statistical data provided by the Polish Border Guard on the number of asylum Applications in Poland in 2019 and 2020 (submitted on the border with Belarus incl. Terespol).





Also during the asylum proceedings, problems with access to information arise. One of them is the lack of translation of the documents produced during asylum proceedings. Virtually all of the official letters delivered to applicants are in Polish. As a result, the applicant could easily miss out on the opportunity to present the evidence in his or her case, as the letter informing about the intended closure of the proceedings and a final chance to complete the evidence is delivered in Polish. The Act on Granting Protection to Foreigners on the Territory of the Republic of Poland ('Act on Granting Protection') indicates very limited instances, in which a translation is obligatory. An interpreter must be present during lodging an asylum application (Article 30(1)(6)) and during questioning, if necessary (Article 44(4)(3)). However, when the applicant is interviewed, his or her answers are written down in Polish. Therefore, the applicant cannot verify if the protocol is correct and properly reflects his answers, but in fact, must be dependent on an interpreter who translated the answers to Polish in the first place. In that way, the mistakes could be impossible to discover. Secondly, a first instance decision must be translated, but only partially, limited to legal provisions on which the decision was based (which comes down to indicating numbers of certain provisions of the Polish law), the final finding (for example refusal or granting international protection) and information (including information on the appeal, available legal assistance etc.). As a result, the applicant is not even briefly aware of the factual and legal reasoning of an issued decision, which, in consequence, prevents him or her from writing a well-informed and adequate appeal without obtaining legal aid.

In addition, we came across a decision issued on 10 December 2021 to one of our clients, refusing to grant international protection to an Iraqi applicant, in which the applicant was not properly informed about the right to obtain legal aid. The information directed the applicant to an invalid webpage: www.udsc.gov.pl. It is possible that such an error, which could *de facto* deprive an applicant of obtaining legal aid, was duplicated in other decisions.

Some applicants detained in guarded centres for foreigners complain that there is no one who could explain to them the current status of their proceedings and the expected time of their further detention. In fact, the regular staff of the detention centres do not have any information about ongoing individual proceedings, while the administration and educational workers are overwhelmed by the amount of work and often cannot individually approach detainees. The situation in some detention centres has a negative impact on the right to information, which was observed by the Polish Ombudsman⁴¹.

Due to limited implementation of Article 19(1) of the Directive 2013/32/EU of the European Parliament and of the Council of 26 June 2013 on common procedures for granting and withdrawing international protection to the Polish law, the right to information is restricted to receiving by an applicant a list of legal provisions applied

⁴¹ Ombudsman. (October 26, 2021). <https://bip.brpo.gov.pl/pl/content/rpo-osrodki-cudzoziemcy-wizytacje-zle-warunki>





during asylum proceedings (Article 69c(1) of the Act on Granting Protection). The information is usually provided in writing in a language known to an applicant. However, if such information is not translated beforehand, an applicant must rely on a summary translation provided by an interpreter. Later, during the proceedings and after receiving a negative decision, the applicants have no possibility to communicate with the clerks from the Office for Foreigners to receive information about their individual cases.

Even the legal representatives of asylum seekers experience problems with communicating with the clerks from the Office for Foreigners, whether it is about receiving information about the case or accessing the case files. The phone calls almost always remain unanswered, while a response to an email or a letter is sometimes received weeks after sending a message.

Already in the past, legal representatives were refused access to their clients at the border crossing points who wanted to apply for asylum in Poland and couldn't provide them with legal assistance⁴². In the mentioned cases, the authorities not only failed to initiate the asylum proceedings but also refused the lawyers access to their clients in the procedures on refusal of entry. Recent developments make legal representation even more illusory in many aspects. Firstly, the implementation of an exclusion zone at the border with Belarus makes it impossible for lawyers to freely move and meet their clients in the restricted area. In general, if a lawyer is not a resident of, or does not have a permanent office in an exclusion zone, they must first get an individual consent of a commander of a local Border Guard to enter the zone. That means, in practice, that active participation of a representative in the legal proceedings taking place in the Border Guard stations near the border is dependent on an additional, arbitrary decision of a local Border Guard commander. As an example, when three representatives of the asylum-seekers stranded at the border in Usnarz Górny tried to approach their clients as provided for in an interim measure granted by the ECtHR, they were stopped at a checkpoint and not allowed to enter a state of the emergency zone and meet their clients⁴³.

Restrictions applied on providing legal services by attorneys were criticized by the National Bar Association, describing the restrictions as limiting the right to defense and right to court, as well as the right to provide legal assistance by attorneys in the territory of Poland⁴⁴. The Bar Association also pointed out an unfounded practise of the Border Guard officers, who concentrate their efforts on undermining the validity of the documents of power-of-attorney presented to them by the representatives⁴⁵. A similarly alarming practice of the Border Guard officers is approaching detained asylum-seekers in

⁴² Helsinki Foundation for Human Rights | Helsińska Fundacja Praw Człowieka. (2021). Input by civil society to the EASO Annual Report 2021. <https://easo.europa.eu/sites/default/files/Helsinki-Foundation-for-Human-Rights-Poland.docx>

⁴³ Dziennik Gazeta Prawna. (September 28, 2021). Usnarz Górny. ETPC nakazał dopuścić prawników do koczujących Afgańczyków. <https://serwisy.gazetaprawna.pl/orzeczenia/artykuly/8257792.etpc-usnarz-gorny-migranci-skarga-dopuszczenie-prawnikow-srodk-tymczasowe.html>

⁴⁴ Naczelna Rada Adwokacka | National Bar Association. (September 10, 2021). <https://www.adwokatura.pl/z-zyciana/stan-wyjatkowy-nie-ogranicza-prawa-do-obrony-stanowisko-prezesa-nra-i-dziekan-ora-w-bialymstoku/>

⁴⁵ Ibidem.





order to ‘verify’ whether they confirm legal actions undertaken by their legally empowered representative⁴⁶.

While in general there are no significant obstacles related to counselling or meetings with legal representatives in the detention centres for foreigners, it should be noted that according to HFHR’s experience, some meetings with lawyers did not ensure privacy.

In February 2022 all direct meetings in detention centres (including meetings with legal representatives) were banned for a month⁴⁷.

3. Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)

Taking into account the increasing number of foreigners entering the territory of Poland in an irregular manner, and consequently, the need of initiating appropriate procedures with a presence of an interpreter, the lack of available interpreters of some languages can cause long waiting time to formally lodge an asylum application.

We received information about problems with the quality of the provided translations. Some asylum-seekers complained they received a first instance decision translated (partially, see point 2 above) into Kurdish language, even though they declared native knowledge of Arabic – and the other way around (documents in Arabic received by a Kurdish speaker). Some asylum applicants are complaining about the poor knowledge of their language by the interpreters. The applicants claim that during questioning they were asked about some information included in the initial asylum application form, and only then they noticed incompatibility with what they said and tried to explain the discrepancies. However, at that point, any difference with respect to the facts given during the proceedings – often resulting from the procedural insufficiency - is usually used by the authorities as proof that the testimonies of an applicant are not credible.

In Polish law, there are no legally-binding prerequisites for becoming an interpreter assisting during the asylum procedure. The Border Guard, which is responsible for receiving and registering asylum applications, is free to hire a person who declares knowledge of a given language, irrespective of their professional qualifications. For example, in 2021 one of the regional branches of the Border Guard called for interpreters among students of one of the business schools in Wrocław⁴⁸.

⁴⁶ Wyborcza.pl. Białystok. (February 8, 2022). Sprawiedliwość za wywózki. Pierwsza sprawa sądowa o push-back na Białoruś. <https://bialystok.wyborcza.pl/bialystok/7,35241,28087317,sprawiedliwosc-za-wywozki-pierwsza-sprawa-sadowa-o-push-back.html>

⁴⁷ Ombudsman. (February 18, 2022). <https://bip.brpo.gov.pl/pl/content/kmpt-wizytacja-lesznowola-02-22>

⁴⁸ Fundacja “Nomos” | Nomos Foundation. (April 24, 2021). <http://www.nomos.org.pl/publikacje/sg.html>





4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

In 2021, Poland received a greater number of requests to take responsibility within a Dublin system. The majority of the requests came from Germany (2508, compared with 1147 in 2020).

In 2021 Poland also more often than in recent years initiated an outgoing Dublin procedure, with a total of 373 times, compared to 228 in 2020. Most of the outgoing requests were addressed to Romania (33%) and covered mainly Afghan nationals, which, according to the Head of the Office for Foreigners, might indicate a growing relevance of Romania as a transfer country on the way to Poland.

5. Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)

2021 brought significant changes to the procedures applied to migrants who crossed the border illegally, by introducing new legal instruments.

Since mid-August, the Polish Border Guard started to justify pushback practices with the Regulation of 20 August 2021 of a Ministry of the Interior and Administration, which entered into force on 21 August 2021⁴⁹. The amendment stipulated that individuals, who were not authorized to enter Poland, were to be immediately 'instructed' to leave the territory of the Republic of Poland and returned by the Polish Border Guard to the state border line. The Regulation prescribed no legal return proceedings nor did it provide exceptions for persons seeking international protection. It was criticized by the ODIHR⁵⁰ and the Polish Ombudsman⁵¹. The Polish Ombudsman recently declared his access to the proceedings initiated by the complaint against pushback to the administrative court⁵².

Subsequent changes were introduced by the act of 14 October 2021 amending the Act on Foreigners and other acts. The new regulations entered into force on 26 October 2021⁵³. They provided for a simplified procedure of returning migrants who have crossed the

⁴⁹ Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 20 sierpnia 2021 roku zmieniające rozporządzenie w sprawie czasowego zawieszenia lub ograniczenia ruchu granicznego na określonych przejściach granicznych. [*Ordinance of the Ministry of Interior and Administration of August 20, 2021, amending Ordinance regarding temporary suspension or limitation of border traffic on specified border crossing points.*] <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20210001536/O/D20211536.pdf>

⁵⁰ OSCE Office for Democratic Institutions and Human Rights. (September 10, 2021). [https://bip.brpo.gov.pl/sites/default/files/2021-09/Opinia_ODIHR_10.09.2021_\(jez.angielski\).pdf](https://bip.brpo.gov.pl/sites/default/files/2021-09/Opinia_ODIHR_10.09.2021_(jez.angielski).pdf)

⁵¹ Ombudsman. (August 26, 2021). <https://bip.brpo.gov.pl/pl/content/rpo-mswia-granice-azyl-ochrona-cudzoziemcy>

⁵² Ombudsman. (February 3, 2022). <https://bip.brpo.gov.pl/pl/content/rpo-wsa-cudzoziemcy-pushbacki-przepisy-sprzeczne-z-prawem>

⁵³ Ustawa z dnia 14 października 2021 roku o zmianie ustawy o cudzoziemcach oraz niektórych innych ustaw (Dz. U. 2021, poz. 1918): <https://isap.sejm.gov.pl/isap.nsf/download.xsp/WDU20210001918/O/D20211918.pdf>





border of Poland in an unauthorized way. The amendments were criticised by the Polish Ombudsman⁵⁴, civil society organizations^{55 56 57}, ODIHR⁵⁸ and UNHCR⁵⁹ as violating, among others, the right to seek asylum and a non-refoulement principle. According to the new law, the foreigner apprehended immediately after crossing the border illegally may be issued a removal order, based on a protocol prepared by the Border Guard officer, irrespective of whether the foreigner expressed his or her will to apply for international protection. In no manner, the risk of human rights violation in the country to which the migrant is being returned is assessed. Appeal against the removal order does not have a suspensive effect, the removal order is effective immediately. The procedure of issuing a removal order also does not guarantee, among others, the right to information, right to a legal representation or right to active participation in the proceedings.

Additionally, under the new provisions, the application for international protection may be left without examination to the merits if it was made by the foreigner apprehended immediately after unauthorised crossing of the EU's external border, unless:

- the foreign national arrived directly from a territory in which they were in danger of persecution,
- they provide credible reasons for the irregular border crossing, and
- they made the application for international protection immediately after crossing the border.

When the abovementioned conditions are not fulfilled, the Head of the Office for Foreigners informs the applicant in writing that his/her application will not be examined. In that situation no decision is issued, there is no right to appeal against such information, the foreigner is no longer treated as an applicant for international protection and he or she loses the right to stay in Poland.

6. Reception of applicants for international protection (including information on reception capacities - increase/decrease/stable, material reception conditions - housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

⁵⁴ Ombudsman. (October 5, 2021). <https://bip.brpo.gov.pl/pl/content/rpo-cudzoziemcy-wydalanie-opinia-senat>

⁵⁵ Fundacja Ocalenie | Ocalenie Foundation. (August 28, 2021). https://ocalenie.org.pl/wp-content/uploads/2021/08/zmiany-prawa-migracyjnego_opinia.pdf;

⁵⁶ Stowarzyszenie Interwencji Prawnej | Association for Legal Intervention. (September 30, 2021). <https://interwencjaprawna.pl/projekt-ustawy-ograniczajacy-prawa-uchodzcow-co-jest-nie-tak/>

⁵⁷ Helsińska Fundacja Praw Człowieka | Helsinki Foundation for Human Rights. (September 6, 2021). Ombudsman. <https://www.hffr.pl/wp-content/uploads/2021/09/HFPC-uwagi-do-projektu-ustawy-o-cudzoziemcach-i-o-udzielaniu-ochrony06092021.pdf>

⁵⁸ OSCE Office for Democratic Institutions and Human Rights. (September 10, 2021). [https://bip.brpo.gov.pl/sites/default/files/2021-09/Opinia_ODIHR_10.09.2021_\(jez.angielski\).pdf](https://bip.brpo.gov.pl/sites/default/files/2021-09/Opinia_ODIHR_10.09.2021_(jez.angielski).pdf)

⁵⁹ UN High Commissioner for Refugees. (September 16, 2021). UNHCR observations on the draft law amending the Act on Foreigners and the Act on Granting Protection to Foreigners in the territory of the Republic of Poland (UD265). <https://www.refworld.org/docid/61434b484.html>





The year 2021 brought an end to some of the reception centres for applicants for international protection. In the first months of 2021 a reception centre for women and children in Warsaw, Targówek, which was operating for many years, was liquidated. Its location was very unique, considering that the usual location of other reception centres is outside of big cities. Residents from the centre in Warsaw were moved to a designated building in the centre in Podkowa Leśna-Dębak in the outskirts of the city of Warsaw. Furthermore, the reception centre in Biała Podlaska was entirely turned into a detention centre managed by the Border Guard, and the reception centre in Czerwony Bór was partially adapted for a detention centre of the Border Guard⁶⁰.

According to the data provided by the Head of the Office for Foreigners, as of 31 December 2021, the Head of the Office for Foreigners provided support to 5 992 foreigners (2 816 more than in the year before). 18% of those were housed in one of the reception centres.

7. Detention of applicants for international protection (including detention capacity – increase /decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

The number of detained applicants for international protection was significantly higher than in years before. As mentioned in point 6 above, some of the reception centres for asylum-seekers were turned into detention centers. Also, part of the military polygon in Wędrzyn was hastily adapted to host a new temporary detention centre for hundreds of male migrants. At the end of December 2021, there was a total of 1732 detained migrants.

Moreover, two Border Guard stations in proximity of the Belarusian border (Dubicze Cerkiewne and Połowce) became ‘centres for registration of foreigners’ where the foreigners are located after having been issued a decision on detention, but before being transported to the detention centres.

The minimum living space in detention centres is regulated by the Ordinance of the Minister of Interior and Administration of 24 April 2015 on guarded centres and arrests for foreigners⁶¹. The Ordinance has an Appendix called “Organizational Regulations of the stay of foreigners in guarded centres and arrests for foreigners”. In general, para. 11(1)(1) of the Appendix states that the minimum space in a room should be no less than 4 square meters per person. However, it was recently amended by a new Ordinance of the Minister of Interior and Administration of 13 August 2021⁶², and, since then, pursuant to para

⁶⁰ Dziennik Gazeta Prawna. (August 26, 2021). Granice wytrzymałości. Jak wygląda sytuacja w ośrodkach dla cudzoziemców? <https://www.gazetaprawna.pl/wiadomosci/swiat/artykuly/8232010.osrodki-dla-cudzoziemcow-ile-miejsc.html>

⁶¹ Rozporządzenie Ministra Spraw Wewnętrznych z dnia 24 kwietnia 2015 r. w sprawie strzeżonych ośrodków i aresztów dla cudzoziemców, <https://isap.sejm.gov.pl/isap.nsf/DocDetails.xsp?id=WDU20150000596>

⁶² Rozporządzenie Ministra Spraw Wewnętrznych i Administracji z dnia 13 sierpnia 2021 r. zmieniające rozporządzenie w sprawie strzeżonych ośrodków i aresztów dla cudzoziemców, <https://dziennikustaw.gov.pl/DU/2021/1482>





11(1a) of the Appendix, if there is a need to detain a large number of foreigners at once, the minimum space per person should be no less than 2 square meters.

Grounds for detaining migrants are in general provided for in the Aliens Act, while grounds to detain an applicant for international protection are set forth in the Act on Granting Protection. The increased number of detainees and the length of detention can be, among others, influenced by the way in which the new applicants arrive at the territory of Poland and in which their asylum requests are handled by the Border Guard.

First of all, the fact that a migrant does not have documents entitling him or her to a legal stay at the territory of Poland, leads to initiation of the proceedings on an obligation to return. In practice, such proceedings are initiated also towards migrants, who expressly asked for asylum in Poland (even though Article 303(4) of the Aliens Act states that a proceeding on the obligation to return shall not be initiated if proceeding on granting international protection is pending).

Secondly, the statistics show that only a small number of migrants lodge their asylum applications in the Border Guard stations located near the border with Belarus. For example, according to the Head of the Office for Foreigners, in 2021 all applicants of Iraqi nationality lodged their asylum applications already after being admitted to the detention centres. Based on our observations, some of the local Border Guard officers believe that the administration of the detention centres is better prepared for accepting formal asylum applications, and it happens that the officers informally advise migrants to apply for asylum later, after being transferred to detention centres.

Because of the abovementioned practice, the fact that a migrant asked for asylum immediately after being apprehended by the Border Guard is often not properly registered, and the detention is usually based on the following provisions of the Aliens Act: Article 398(1)(1) – allowing to detain a migrant when there is a probability of issuing a decision on an obligation to return without indication of the date of voluntary return, in connection with the Articles 315(2)(1) and 315(3)(3) – stating that the date of voluntary return is not set when there exists a possibility of an escape, while to assess the possibility of an escape it should be taken into account that a foreigner crossed the border illegally. Thus, all migrants arriving from Belarus through ‘green border’ are generally believed to fulfil those grounds for detention: ‘probability of issuing a decision on an obligation to return’ – as the procedure on an obligation to return has already been initiated, and ‘possibility of an escape’ – due to illegal crossing of the border. The maximum, and at the same time the usual period of detention based on the provisions of the Aliens Act is 3 months, which then can be extended to a maximum of 18 months altogether (Article 403(5)).

If an application for asylum is lodged while already being in detention, the Border Guard asks the court to set a new period of detention for 90 days starting from the moment of lodging an application (compared to 60 days if an application would be lodged without





prior detention). The most common grounds used for justification of detention of the asylum seekers are:

- Article 87(1)(1) of the Act of Granting Protection: in order to establish or verify the identity of the applicant
- Article 87(1)(2): in order to collect information on which the application for asylum is based, provided that otherwise the collection would be impossible and provided there is a significant probability of an escape
- Article 87(1)(3): in order to issue or execute a decision on an obligation to return, provided that the applicant could have applied for international protection earlier on and there is a reasonable supposition that the application was lodged only in order to prevent deportation,

while a possibility of an escape exists when the applicant: 1. does not have an ID while applying for international protection, 2. crossed the border illegally, unless they came directly from a territory where they were at risk of persecution or severe harm and credibly justified reasons of illegal entry and applied for asylum immediately after crossing the border, 3. entered the territory of Poland while being in the registry of undesired persons or in SIS.

Therefore, when the abovementioned provisions are to be applied to asylum seekers arriving from Belarus in an unauthorised manner, the asylum seekers are believed to generally fulfil the grounds for detention set forth in the Act on Granting Protection, such as the need to collect information included in the application for international protection and existence of a risk of an escape based on illegal crossing of the border or lodging application for international protection only for the sake of preventing deportation.

The maximum time of detention of an asylum seeker is a total of 6 months from the moment of lodging the application. The practice of not accepting the formal applications immediately after the apprehension of a migrant who asks for asylum leads to a situation when the maximum period of 6 months starts to run already after days, weeks or months of prior detention.

It is worth noting, that even though Poland suspended deportations to countries such as Syria and Afghanistan, asylum seekers of Syrian and Afghan origin are often placed in detention.

Alternatives to detention of asylum seekers were applied exceptionally (according to the Border Guard: only 89 times in 2021).

An ongoing concern is lengthy detention of children as well as lack of proper identification of the most vulnerable groups of asylum seekers such as victims of torture, who, according to legal provisions, should not be detained⁶³. In January 2022 the Polish Ombudsman

⁶³ European Commission for Refugees and Exiles, Asylum Information Database, country reports on Poland, https://asylumineurope.org/wp-content/uploads/2021/04/AIDA-PL_2020update.pdf ; Helsinki Foundation for





officially addressed the courts and explained that the detention centres do not provide adequate living conditions for children and that detention should be always applied only as a last resort⁶⁴. The Polish deputy Ombudsman, Hanna Machińska, condemned the existing practice of placing victims of torture and children in detention⁶⁵. Apparently, one of the reasons why courts would place migrants and asylum seekers (including children) in detention is a belief that it will do them good⁶⁶.

After their visit to the detention centre for families in Kętrzyn, the representatives of the office of the Polish Ombudsman acting as a National Mechanism for Prevention of Torture pointed out the alarming practice of accommodating migrants and asylum seekers in containers distant from sanitary facilities and the lack of proper medical care, including no available paediatrician⁶⁷.

Another detention centre visited in October⁶⁸ and December⁶⁹ 2021 and January 2022 by the representatives of the Polish Ombudsman was a temporary detention centre in Wędrzyn. After carrying out the last of three visits, the Ombudsman described the facility as not fulfilling requirements for the prevention of inhuman and degrading treatment of the detainees⁷⁰. The Ombudsman stressed that the conditions do not allow for any privacy, rooms are overcrowded, the minimum living space is unacceptably insufficient, there are razor wires within the walking areas, detainees suffer psychological issues and the internal psychologist does not pay enough attention to their conditions, and the localisation of the facility within active polygon adds to traumatic experiences of the detainees.

The conditions at the detention centres led some of the detainees to protests and strikes (including hunger strikes)^{71 72}.

Human Rights | Helsińska Fundacja Praw Człowieka. (2021). Input by civil society to the EASO Annual Report 2021. <https://easo.europa.eu/sites/default/files/Helsinki-Foundation-for-Human-Rights-Poland.docx>

⁶⁴ Ombudsman. (January 25, 2022). https://bip.brpo.gov.pl/sites/default/files/2022-02/RPO_sad_25.1.2022.pdf

⁶⁵ EUobserver. (February 8, 2022). Children and torture-victims in Polish detention, MEPs told. <https://euobserver.com/migration/154320>

⁶⁶ Magazyn Wyborczej. Wolna Sobota. (February 11, 2022). Zawieszona przez Ziobrę sędzia Joanna Hetnarowicz-Sikora: To, co zrobię, nie spodoba się na Nowogrodzkiej. <https://wyborcza.pl/magazyn/7,124059,28100302,zawieszona-przez-ziobre-sedzia-joanna-hetnarowicz-sikora-to.html>. In an interview a judge explains that her colleagues who place migrants in detention believe that detention centres are safe places to be.

⁶⁷ Ombudsman. (December 7, 2021; December 9, 2021). <https://bip.brpo.gov.pl/pl/kmpt/wizytacja-kmpt-w-strzezonym-osrodku-dla-cudzoziemcow-w-ketrzynie>

⁶⁸ Ombudsman. (October 26, 2021). <https://bip.brpo.gov.pl/pl/content/rpo-osrodki-cudzoziemcy-wizytacje-zle-warunki>

⁶⁹ Ombudsman. (December 14, 2021; December 16, 2021). <https://bip.brpo.gov.pl/pl/kmpt/wizytacja-kmpt-w-strzezonym-osrodku-dla-cudzoziemcow-w-wedrzynie-i-krosnie-odrzanskim>

⁷⁰ Ombudsman. (January 24, 2022). <https://bip.brpo.gov.pl/pl/content/rpo-wedrzyn-cudzoziemcy-osrodek-standardy>

⁷¹ Dziennikwschodni.pl. (December 23, 2021). Rodziny z małymi dziećmi w zamkniętym ośrodku. Białą Podlaską odwiedziły pracownicy RPO. <https://www.dziennikwschodni.pl/biala-podlaska/rodziny-z-malymi-dziecmi-w-zamknietym-osrodku-biala-podlaska-odwiedzili-pracownicy-rpo.n.1000300519.html>

⁷² InfoMigrants. (February 11, 2022). Migrants in Polish detention center stage hunger protest. <https://www.infomigrants.net/en/post/38499/migrants-in-polish-detention-center-stage-hunger-protest>





8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decision-making, timeframes, case management - including backlog management)

A significant change was introduced by an amendment described in point 5 above, which allowed for the application for international protection to be left without examination of the merits.

More information can be found in the ECRE's AIDA Country report on Poland.

9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management - including backlog management)

Procedures before the second instance body – the Refugee Board – are characterised by their general ineffectiveness. The Refugee Board may annul the first instance decision, overturn it, or confirm it. In 2021, appeals were submitted in the case of 1 142 applicants. In the case of 1 007 applicants the negative decision was upheld. It means that only exceptionally the Refugee Board overturns a decision issued by the Head of the Office for Foreigners and the chances of success of appeals are very low in practice. In 2021, refugee status was not granted at all by the appeal body and subsidiary protection was granted in case of 11 persons.

In 2021, the average processing time for the Refugee Board to issue a decision in appeal proceedings was 203 days for the cases which finished in 2021. The longest processing time in 2020 took 1 697 days (in 2019 it was 1 355 days) and the shortest - 6 days. There were no cases (down from 5 in 2020) where the Refugee Board decided to hear the applicant (but the Refugee Board stresses that applicants were also asked for written statements), and there were no cases of hearing a witness in 2021 (just like in 2020).

In 2021, according to the Refugee Board, there were no prolonged pauses in the decision making process, although hearings were impossible in practice.

A relatively low number of the decisions of the Refugee Board are successfully challenged before administrative courts. According to the statistics of the Refugee Board, in 2021 there were 285 (down from 336 in 2020) complaints submitted to the Voivodship Administrative Court in Warsaw against all the decisions of the Refugee Board (not only refusing protection). The Voivodship Administrative Court in Warsaw annulled the decision of the administrative authorities (either of the Refugee Board or both decision of the first and second instance) in 30 cases in 2021, and in 245 cases it dismissed the complaint. In 98 cases cassation complaints to the Supreme Administrative Court were lodged by the applicants in 2021 (another 3 complaints were lodged by the Refugee





Board). The Supreme Administrative Court annulled the judgment of the Voivodship Administrative Court as well as the decision of the Refugee Board in 4 cases. In 28 cases in 2021 the cassation complaint was dismissed.

More detailed information can be found in the ECRE's AIDA Country report on Poland.

10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

It is worth noting that, the Head of the Office for Foreigners recently published thematic reports, that were prepared by external experts, at the request of the office⁷³.

11. Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)

As mentioned in point 7 above, the proper identification of vulnerable applicants remains a challenge.

We received disturbing information from migrants claiming they are unaccompanied minors placed in detention centres together with adults, as a result of the erroneous outcome of the age assessment procedure.

We were also informed about a situation when a minor from Syria was placed in detention, even though he asked for asylum (according to legal provisions, minor asylum seekers should not be detained and they should be immediately appointed a legal guardian). For approximately 20 days the boy waited in a registration centre for foreigners to be transported to a detention centre and only then his asylum application was formally lodged, the Border Guard asked the court to appoint a legal guardian to the boy and he was released to a child care home. The described situation reflects existing deficiencies in the treatment of the applicants who are unaccompanied minors. In theory, each minor applicant has the right to be appointed legal guardian to represent him during asylum proceedings (Article 61 of the Law on Granting Protection). However, in practice, the authorities can for a long time ignore the minor's declaration to apply for international protection and thus avoid undertaking steps required by law.

12. Content of protection (including access to social security, social assistance, healthcare, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve

⁷³ Head of the Office for Foreigners, Raporty ekspertów zewnętrznych, <https://www.gov.pl/web/udsc/raporty-ekspertow-zewnetrznych>





attainment in schooling and/or the education system and/or vocational training)

The treatment of persons granted international protection in Poland is still of insufficient quality. The report of 2020 describing integration policies in Poland summarized the situation as ‘characterised by lack of official integration strategy’⁷⁴. The beneficiaries of international protection who struggle to adapt to life in a new place did not receive sufficient institutional help.

In 2021, the government presented a draft resolution of the Council of Ministers of Poland, called ‘Migration policy for Poland – directions for 2021-2022’⁷⁵. However, the proposal was criticized by the NGOs acting in the field of migration and asylum as inadequate and not responding to the existing shortcomings⁷⁶.

13. Return of former applicants for international protection

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

In 2020, on the basis of the COVID Law, the time limit to leave Poland has been prolonged until 30 days after the epidemic state (or the state of epidemic threat) is finished. In 2021 the state of epidemic was still in force. As of 31 December 2021, there were 259 ongoing appeal cases before the Refugee Board.

More detailed information can be found in the ECRE's AIDA Country report on Poland.

14. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)

We don't have information in this regard showing that Poland participates in such programmes.

⁷⁴ Respond. Integration Policies, Practices and Experiences. Poland Country Report. (August 2020). https://www.academia.edu/43983097/Integration_Policies_Practices_and_Experiences_Poland_Country_Report

⁷⁵ Ministry of Interior and Administration. (July 6, 2021). <https://www.gov.pl/web/mswia/projekt-uchwaly-rady-ministrow-w-sprawie-przyjecia-dokumentu-polityka-migracyjna-polski-kierunki-dzialan-2021-2022-id179>

⁷⁶ Konsorcjum.org.pl. (July 20, 2021) Uwagi organizacji społecznych do rządowego dokumentu „Polityka migracyjna Polski – kierunki działań 2021-2022”. <https://konsorcjum.org.pl/wp-content/uploads/2021/08/uwagi-Konsorcjum-do-rzadowej-polityki-migracyjnej-1.pdf>





15. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)

Poland does not fulfil its obligations under the Relocations Decisions⁷⁷.

16. National jurisprudence on international protection in 2021 (please include a link to the relevant case law and/or submit cases to the EUAA Case Law Database)

Updates on relevant national jurisprudence in asylum law can be found at: <https://www.asylumlawdatabase.eu/en> and in the ECRE's AIDA Country report on Poland.

17. Other important developments in 2021

More information can be found in the ECRE's AIDA Country report on Poland.

References and sources

18. Please provide links to references and sources and/or upload the related material in PDF format

Relevant links can be found in the footnotes.

19. Feedback or suggestions about the process or format for submissions to the Asylum Report

Contact details

⁷⁷ ECRE. (April 10, 2020). CJEU: Poland, Hungary, and Czech Republic failed to fulfil obligations under Council Relocations Decisions. <https://ecre.org/cjeu-poland-hungary-and-czech-republic-failed-to-fulfil-obligations-under-council-relocations-decisions/>





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Name and title of contact person: Mr Daniel Witko

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I accept the provisions of the EUAA [Legal and Privacy Statements](#)

