

Poland Immigration Detention Profile

September 2016

- Introduction
- Laws, Policies, Practices
- Detention Infrastructure

INTRODUCTION

Reflecting trends in the [Czech Republic](#), [Slovakia](#), and elsewhere in Europe, politicians in Poland frequently employ anti-immigrant rhetoric to explain social ills. The head of Poland's ruling party has said that "no refugees will be accepted in Poland, since they pose a threat to security."¹ There have been numerous cases of refusal of entry at Poland's eastern border, where border guards have prevented people from accessing asylum procedures.²

The [Visegrad Group](#)—which includes Poland, [Hungary](#), Slovakia, and the Czech Republic—has become particularly hostile to the European Commission, opposing proposed quotas of asylum seekers, which the EU has urged Member States to accept to assist [Greece](#) and [Italy](#).³ Public opinion surveys indicate that anti-migrant attitudes are

¹ RT, "Poland 'won't accept refugees because of threat to security' – Kaczynski," *RT*, 9 May 2016, <https://www.rt.com/news/342313-poland-rejects-refugees-kaczynski/>, Helene Bienvenu, "Poland 'changing for the worse' for Muslims and refugees," *EU Observer*, 22 July 2016, <https://euobserver.com/beyond-brussels/134447>.

² AIDA, *Poland: Access to asylum denied at the Eastern borders*, July 2016, <http://www.asylumineurope.org/news/02-09-2016/poland-worsening-restrictions-and-refusals-entry-eastern-border>; SIP, *At the border: Report on monitoring of access to the procedure for granting international protection at border crossings in Terespol, Medyka, and Warszawa-Okęcie Airport*, 2016, <http://interwencjaprawna.pl/en/files/at-the-border.pdf>.

³ The Economist, "Big, bad Visegrad," *The Economist*, 30 January 2016, <http://www.economist.com/news/europe/21689629-migration-crisis-has-given-unsettling-new-direction-old-alliance-big-bad-visegrad>.

rife in Polish society, with roughly two-thirds of respondents voicing opposition to admitting refugees.⁴

These views bely the fact that in Poland there is little sign of the humanitarian challenges impacting neighbours like Hungary.⁵ During 2015, the country apprehended some 16,800 non-citizens without documents (up from 6,900 in 2011), which is comparable to [Belgium](#) (16,300), [Switzerland](#) (15,600), and [Finland](#) (14,300). In contrast, Hungary apprehended more than 400,000 people in 2015.⁶

The number of deportations has increased: In 2015, the country deported approximately 12,900 people, nearly doubling the total from 2012 (6,900). The 2015 figure is similar to Greece (14,400 deportations) and Spain (13,300).⁷

Poland is not a major destination country for asylum seekers. In 2015, roughly 12,200 persons applied for asylum, compared to 45,000 in Belgium, 39,500 in Switzerland, and 32,300 in Finland (countries which apprehended a similar number of non-citizens). Nevertheless, the number of detained asylum seekers has steadily increased. In 2013, 1,119 asylum seekers were detained compared to 359 in 2010.⁸

Poland recently amended its legal framework governing immigration detention. While alternatives to detention and restrictions on detention of children were inserted in the legislation, the maximum length of detention was increased from 12 to 18 months. Detention centre monitoring reports indicate that conditions and treatment at facilities have generally improved. In previous years, Poland's immigration detention practices attracted criticism from numerous UN human rights treaty bodies.

LAWS, POLICIES, PRACTICES

Key norms. The Law on Foreigners ([Ustawa o cudzoziemcach](#)), adopted in December 2013, overhauled Poland's legal framework governing migration. The Law regulates

⁴ Adam Leszczyński, "'Poles don't want immigrants. They don't understand them, don't like them'," *the Guardian*, 2 July 2015, <https://www.theguardian.com/world/2015/jul/02/poles-dont-want-immigrants-they-dont-understand-them-dont-like-them>.

⁵ Helene Bienvenu, "Poland 'changing for the worse' for Muslims and refugees," *EU Observer*, 22 July 2016, <https://euobserver.com/beyond-brussels/134447>; European Economic and Social Committee, *EESC fact-finding missions on the situation of refugees, as seen by civil society organisations*, March 2016, http://www.eesc.europa.eu/resources/docs/poland_migration-mission-report_en.pdf; Adam Leszczyński, "'Poles don't want immigrants. They don't understand them, don't like them'," *the Guardian*, 2 July 2015, <https://www.theguardian.com/world/2015/jul/02/poles-dont-want-immigrants-they-dont-understand-them-dont-like-them>.

⁶ Eurostat, *Database: Enforcement of Immigration Legislation*, last updated 14 July 2016, <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>.

⁷ Eurostat, *Database: Enforcement of Immigration Legislation*, last updated 14 July 2016, <http://ec.europa.eu/eurostat/web/asylum-and-managed-migration/data/database>.

⁸ Paweł Michniewicz (Ministry of Interior, Migration Policy Department), Response to Global Detention Project/ Access Info Questionnaire, 30 April 2013; Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), January 2015, <http://www.asylumineurope.org/reports/country/poland>.

entry, transit, stay and exit of non-citizens from the territory of Poland, including immigration detention (*areszt dla cudzoziemców*). Detention of non-citizens is also provided in the 2003 Aliens Protection Law ([Ustawa o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej](#)), which was amended several times. The Law sets out the rules and procedures of granting international protection in Poland.

Grounds for detention. Under the Foreigners Law a non-citizen can be detained if: 1) it is probable that a return decision without a possibility of voluntary departure period will be issued; 2) a return decision without a possibility of voluntary departure period has been issued; 3) the non-citizen has not left Poland within the voluntary departure period and his immediate deportation is not feasible; 4) it is necessary to ensure transfer based on the EU [Dublin Regulation](#) if there is a severe risk of absconding and an immediate transfer is not feasible; or 5) the non-citizen does not comply with the duties imposed on him in the context of the alternatives to detention (article 398(1)).

The December 2015 amendment to the Aliens Protection Act transposed the EU (Recast) [Reception Conditions Directive](#) and the Dublin III Regulation. This amendment modified the grounds for detention of asylum seekers, mirroring those provided for in the Reception Conditions Directive. Accordingly, an applicant for international protection may be detained: 1) when it is necessary to establish his identity; 2) in order to determine those elements on which the application for international protection is based which could not be obtained in the absence of detention, in particular when there is a risk of absconding; 3) if he is in pre-removal detention in accordance with the [EU Returns Directive](#) and had previously the opportunity to apply for asylum and it can be substantiated that he is making the application for international protection merely in order to delay or frustrate the enforcement of the return decision; 4) for state security or public order reasons; or 5) according to the Dublin Regulation, in case where there is a serious risk of absconding and an immediate transfer is not feasible (article 87(1)).

The risk of absconding is determined to exist if the applicant for international protection does not have his identity documents; unlawfully crossed or attempted to cross the state's border, unless he arrived directly from a territory where his life or freedom was threatened and showed viable reasons for his irregular entry and applied immediately for asylum; or entered Poland during the period of entry ban (article 87(2)).

In 2013, the [UN Committee against Torture](#) expressed concern that asylum seekers, including children, were detained in guarded centres in prison-like conditions prior to expulsion and recommended that Poland refrain from detaining them.⁹

In the latest version of the Aliens Protection Act, a controversial ground for detention was removed, which allowed detention to prevent abuse of the asylum proceedings. A 2010 assessment of detention orders by the [Halina Niec Legal Aid Center](#) (HNLAC) revealed that irregular border crossing was interpreted by officials as implying the abuse of the asylum procedures. It was the ground for detention of asylum seekers most frequently

⁹ Committee against Torture, *Concluding observations on the combined fifth and sixth periodic reports of Poland*, CAT/C/POL/CO/5-6, 23 December 2013, <http://www.ohchr.org/EN/Countries/ENACARegion/Pages/PLIndex.aspx>.

cited by officials, having been used to justify detention measures in 24 of 46 cases assessed by that organization.¹⁰

The 2010 assessment of detention orders also revealed that grounds and justifications given in court rulings were very similar, indicating the lack of individual assessment of the specific circumstances of cases. The association found that there was a heightened risk of arbitrariness in decision-making regarding third-country nationals returned to Poland as part of Dublin Regulation's procedures. There were discrepancies with respect to the numbers of detained migrants depending on the Border Guard division on the territory in which the person concerned was previously apprehended, ranging from 18 percent in Sudecki Border Guard Division to 90 percent in Luzycki Border Guard Division.¹¹

Statistics. Poland detained 1,322 non-citizens in 2014,¹² 1,767¹³ (or 1,738)¹⁴ in 2013, and 1,416 in 2012.¹⁵ However, differing figures have been reported over the years, leading to potential confusion over total immigration detainee numbers. According to the Ministry of Interior and the Border Guards, in 2011 1,109 migrants were detained,¹⁶ while according to the Polish National Contact Point (NCP) to the [European Migration Network](#) (EMN), there were 1,823 detainees that year.¹⁷ According to the [Helsinki Foundation for Human Rights](#) (HFHR) and EMN NCP, in 2010, 2,310 migrants were put

¹⁰ Halina Niec Legal Aid Center (HNLAC), *Raport o stosowaniu detencji wobec osob starajacych sie o nadanie statusu uchodzcy w Polsce*, December 2010, http://www.pomocprawna.org/images/stories/pomoc_uhodcom/Raport_o_detencji.pdf.

¹¹ Halina Niec Legal Aid Center (HNLAC), *Raport o stosowaniu detencji wobec osob starajacych sie o nadanie statusu uchodzcy w Polsce*, December 2010, http://www.pomocprawna.org/images/stories/pomoc_uhodcom/Raport_o_detencji.pdf.

¹² Dorota Skrzypczyk (Polish Border Guards), *Email to the Global Detention Project*, 12 November 2015.

¹³ Dorota Skrzypczyk (Polish Border Guards), *Email to the Global Detention Project*, 12 November 2015; European Migration Network, *The use of detention and alternatives to detention in the context of immigration policies: Synthesis Report*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/irregular-migration/00_synthesis_report_detention_study_final.pdf.

¹⁴ Jacek Białas et al (Helsinki Foundation for Human Rights and Association for Legal Intervention), *Still behind bars: Report on the Monitoring of Guarded Centres for Foreigners by the Helsinki Foundation for Human Rights and the Association for Legal Intervention*, 2014, http://programy.hfhr.pl/uchodzcy/files/2014/06/PUBLIKACJA_wci%C4%85%C5%BC-za-kratami-ENG_5.8-1.pdf.

¹⁵ Dorota Skrzypczyk (Polish Border Guards), *Email to the Global Detention Project*, 12 November 2015; European Migration Network, *The use of detention and alternatives to detention in the context of immigration policies: Synthesis Report*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/irregular-migration/00_synthesis_report_detention_study_final.pdf.

¹⁶ Paweł Michniewicz (Ministry of Interior, Migration Policy Department), *Response to Global Detention Project/ Access Info Questionnaire*, 30 April 2013; Dorota Skrzypczyk (Polish Border Guards), *Email to the Global Detention Project*, 12 November 2015.

¹⁷ European Migration Network, *The use of detention and alternatives to detention in the context of immigration policies: Synthesis Report*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/irregular-migration/00_synthesis_report_detention_study_final.pdf.

in detention,¹⁸ while according to the Ministry of Interior, 1,515.¹⁹ In 2009, 1,943 persons were held in immigration detention.²⁰ Out of the total number of immigration detainees, 1,119 were asylum seekers in 2013, 763 in 2012, 381 in 2011, and 359 in 2010.²¹

According to Border Guard's statistics, in 2013 451 people were detained in Ketrzyn, 255 in Bialystok, 291 in Biala Podlaska, 466 in Przelysl, 181 in Krosno, and 94 in Lesznowola. 1,119 were asylum seekers, of whom 799 applied for asylum before they were detained. Russian citizens constituted 49 percent and Georgian nationals 18 percent of all detainees. HFHR and the Association for Legal Intervention report that there were clear trends in where specific nationalities were detained: 82 percent of the detainees in Ketrzyn were Russian citizens; Ukrainian nationals were mostly detained in Przemysl.²²

According to the Ministry of Interior at the end of September 2012 there were 270 persons detained in guarded centres, 66 in Przemysl, 61 in Biala Podlaska, 55 in Bialystok, 40 in Krosno Odrzanskie, 31 in Ketrzyn and 17 in Lesznowola.²³ Other sources report that as of mid-November 2012, 391 non-nationals were placed in guarded centres, of which 300 were men, 57 women and 34 minors, including 3

¹⁸ European Migration Network, *The use of detention and alternatives to detention in the context of immigration policies: Synthesis Report*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/irregular-migration/00_synthesis_report_detention_study_final.pdf; Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

¹⁹ Paweł Michniewicz (Ministry of Interior, Migration Policy Department), Response to Global Detention Project/ Access Info Questionnaire, 30 April 2013.

²⁰ European Migration Network, *The use of detention and alternatives to detention in the context of immigration policies: Synthesis Report*, November 2014, http://ec.europa.eu/dgs/home-affairs/what-we-do/networks/european_migration_network/reports/docs/emn-studies/irregular-migration/00_synthesis_report_detention_study_final.pdf; Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

²¹ Paweł Michniewicz (Ministry of Interior, Migration Policy Department), Response to Global Detention Project/ Access Info Questionnaire, 30 April 2013; Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), January 2015, <http://www.asylumineurope.org/reports/country/poland>.

²² Jacek Białas et al (Helsinki Foundation for Human Rights and Association for Legal Intervention), *Still behind bars: Report on the Monitoring of Guarded Centres for Foreigners by the Helsinki Foundation for Human Rights and the Association for Legal Intervention*, 2014, http://programy.hfhr.pl/uchodzcy/files/2014/06/PUBLIKACJA_wci%C4%85%C5%BC-za-kratami-ENG_5.8-1.pdf.

²³ Ministry of Interior, *Informacja o stanie realizacji praw osób osadzonych w strzeżonych ośrodkach dla cudzoziemców prowadzonych przez straż graniczną*. [Information on the respect of the rights of persons held in guarded centres for foreigners managed by the Border Guard], January 2013, <https://bip.mswia.gov.pl/bip/komunikaty/21835,dok.html>.

unaccompanied minors.²⁴ In 2010, 2040 persons were accommodated in guarded centres, of whom 507 in Bialystok, 423 in Ketrzyn, and 415 in Biala Podlaska.²⁵

Minors and other vulnerable groups. The Aliens Protection Law provides that minor asylum seekers may not be detained (article 88(a)(3)(3)). Rather, they are to be placed in a foster care or at a care-educational shelter (article 62). However, detention of unaccompanied minors who have not applied for asylum is not prohibited. The Foreigners Law prohibits merely detention of children under 15 years old. Children who have turned 15 may be detained. The court decides whether the child shall be placed in a care-educational centre or detention centre. In deciding on detention of a child and considering his wellbeing, the court takes into consideration the stage of the child's physical and mental development, his personality, circumstances surrounding his apprehension, and personal conditions. If detained, children may be placed only in a guarded centre (rather than deportation arrest, see below the Infrastructure) and shall be separated from adults (articles 397(1)-(3) and 414(4)). Unaccompanied children are mainly confined at the Ketrzyn detention centre, which has specific rooms.²⁶

Pursuant to the Foreigners Law, a child who is detained with his guardian can only be placed in a guarded centre (and not deportation arrest) and be accommodated together with the guardian (Foreigners Law, article 414(3)).

In 2015, the [UN Committee on the Rights of the Child](#) expressed disappointment that 2013 amendments to the Foreigners Law failed to remove provisions allowing for the detention of asylum-seeking children with their family members. The committee urged Poland to avoid all forms of detention of asylum seekers below 18 years of age and families with children and to consider alternatives prior to detention.²⁷

In 2014, the [UN Committee on the Elimination of Racial Discrimination](#) expressed concern at the continuing practice of detaining minors with their parents in guarded centres for asylum seekers, which prevents those minors from having access to an appropriate education. The committee recommended that Poland refrain from detaining asylum-seeking minors and fully implement the revised Act on the Education System to

²⁴ Jacek Bialas et al. 2012, *Migracja to nie uzbrodnia: Report z monitoringu strzezonych osrodkow dla cudzoziemcow* [Migration is not a crime: report on the monitoring of guarded centres for foreigners], Association for Legal Intervention and Helsinki Foundation for Human Rights, December 2012, <http://interwencjaprawna.pl/18-grudnia-sip-i-hfpc-opublikowaly-raport-z-monitoringu-osrodkow-strzezonych-dla-cudzoziemcow-migracja-to-nie-zbrodnia/>.

²⁵ Norbert Rafalik, *Cudzoziemcy ubiegajacy sie o nadanie statusu uchodzcy w Polsce – teoria a rzeczywistosc (praktyka) (stan prawny na dzien 31 grudnia 2011 r.)*, Centre of Migration Research, Working Paper 55/113, March 2012, <http://www.migracje.uw.edu.pl/publ/1808/>.

²⁶ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>.

²⁷ Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Poland*, CRC/C/POL/CO/3-4, 30 October 2015, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/PLIndex.aspx>.

address their educational difficulties by providing language classes or tutorial assistance in their mother tongue.²⁸

In 2011, the HFHR explained the Global Detention Project that in practice, unaccompanied minors, regardless of whether they filed an asylum claim, were usually accommodated in the Warsaw orphanage, which had a special unit for them.²⁹ On the other hand, Polish rights advocates claim that migrant children who are accompanied by parents or guardians are often detained.

According to the Interior Ministry and Border Guard, 347 children (of whom 18 unaccompanied), were detained in 2014, 374 (of whom 3 unaccompanied) in 2013, 127 (of whom 16 unaccompanied) in 2012, 201 (of whom 14 unaccompanied) in 2011, and 270 (of whom 1 unaccompanied) in 2010.³⁰

According to data collected by the Border Guard, after the introduction of alternative measures in 2014, the number of detained children decreased by more than 40 percent. In the detention centre in Ketrzyn, during the first half of 2014, 104 minors (6 unaccompanied) stayed in the centre; in the same period in 2015 there were 49 (9 unaccompanied). In the centre in Biała Podlaska during the first half of 2014 there was 106 minors and in the same period in 2015 there were 26.³¹

On the other hand, the HFHR and the [Association for Legal Intervention](#) have observed a sharp increase in the percentage of detained children during the monitoring visits. During 2014 visits, children constituted 24 percent of detainee population (84 out of 347 detainees), while in 2012 they made up 9 percent (34 out of 391 detainees).³²

Concerns about the treatment of children in immigration detention are longstanding. In 2011, the HNLAC highlighted problems with education. While guarded centres usually organize classes for children, those classes are carried out by detention staff rather than by professional educators. The organisation also reported that the “majority of classes are organized without age division of children, which hampers the educational process. There is also no uniform program allowing for standardization of education provided in

²⁸ Committee on the Elimination of Racial Discrimination, *Concluding observations on the combined twentieth and twenty-first periodic reports of Poland*, CERD/C/POL/CO/20-21, 19 March 2014, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/PLIndex.aspx>.

²⁹ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

³⁰ Paweł Michniewicz (Ministry of Interior, Migration Policy Department), *Response to Global Detention Project/ Access Info Questionnaire*, 30 April 2013; Dorota Skrzypczyk (Polish Border Guards), *Email to the Global Detention Project*, 12 November 2015.

³¹ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>.

³² Jacek Biały et al (Helsinki Foundation for Human Rights and Association for Legal Intervention), *Still behind bars: Report on the Monitoring of Guarded Centres for Foreigners by the Helsinki Foundation for Human Rights and the Association for Legal Intervention*, 2014, http://programy.hfhr.pl/uchodzcy/files/2014/06/PUBLIKACJA_wci%C4%85%C5%BC-za-kratami-ENG_5.8-1.pdf.

guarded centers. Therefore, the recommends introducing by the Ministry of Education specific guidelines on education of children in guarded centers for foreigners.”³³

In its 2011 report on its visit to Poland, the [Council of Europe’s Committee for the Prevention of Torture](#) (CPT) highlighted dietary problems. “As regards the provision of food, striking differences were observed in the establishments visited. It is noteworthy that, at Biala Podlaska, particular attention was being paid to the nutritional needs of young detainees (for instance, children were given fruit three times a week) as well as to the dietary requirements of foreign nationals. In contrast, a number of complaints were received in the other establishments visited about the quantity and quality of the food provided. At Lesznowola, the delegation noted that scarcely any fruit was given to children. Further, at both Lesznowola and the Airport Deportation Arrest Centre in Warsaw, very little attention was apparently paid to the dietary requirements of foreign nationals.”³⁴

The CPT also discussed deficiencies in recreation for children at some detention facilities. “At Lesznowola, foreign nationals benefited from an ‘open door’ regime, and detainees were able to go into the open air in the morning and the afternoon, each time for at least two hours. However, apart from outdoor exercise, no sports activities or other recreational activities were organised, nor were there board games available. It is all the more worrying that children were not provided with any activities suited to their age.”³⁵

According to the Foreigners Law and Aliens Protection Law, persons who were victims of violence are not to be detained (Foreigners Law, article 400(2) and Aliens Protection Law, article 88(a)(3)). Yet, victims of trafficking are not explicitly protected from immigration detention. Both the Human Rights Committee and the Committee on the Right of the Child have expressed concern that the Penal Code does not ensure that victims of trafficking are not penalized for acts committed as a direct result of being subjected to trafficking. The committees recommended that Poland amend its legislation to include a provision prohibiting criminal prosecution, detention and punishment of trafficked persons for activities they were involved in as a direct consequence of their being trafficked.³⁶

³³ Halina Niec Legal Aid Center (HNLAC), *Detention of migrant children in Poland. Report on implementation of international and domestic standards concerning detention of migrant children*, March 2011.

³⁴ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *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 26 November to 8 December 2009*, CPT/Inf (2011) 21, 12 July 2011, <http://www.cpt.coe.int/documents/pol/2011-20-inf-eng.pdf>.

³⁵ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *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 26 November to 8 December 2009*, CPT/Inf (2011) 21, 12 July 2011, <http://www.cpt.coe.int/documents/pol/2011-20-inf-eng.pdf>.

³⁶ Committee on the Rights of the Child, *Concluding observations on the combined third and fourth periodic reports of Poland*, CRC/C/POL/CO/3-4, 30 October 2015, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/PLIndex.aspx>; Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding*

Length of detention. Pursuant to the Foreigners Law, a non-citizen arrested by the Border Guard or the police for immigration-related reasons may only be detained for an initial period not exceeding 72 hours. If the police apprehended the non-citizen, it shall transfer the person to the Border Guard. The Border Guard has a maximum of 48 hours to request a court to issue a detention order, which in turn shall be ordered in the following 24 hours (article 394(1)-(5)).

The initial detention order issued by the court can be for a maximum of 90 days. This 90-day period can be extended up to a maximum of one year in cases where the enforcement of return takes longer time because of the lack of detainee cooperation or delays in receiving necessary documentation from third countries. The detention period can be extended up to 18 months if the detainee appeals his deportation order (Foreigners Law, article 403(1)-(5)).

The 12-month detention period under the Foreigners Law does not include the time the non-citizen has spent in asylum detention (article 403(4)). By virtue of the Aliens Protection Law, the initial detention period of an applicant for international protection is 60 days. If a non-citizen applies for international protection while being already in detention by virtue of the Foreigners Law and the grounds for detention under the Aliens Protection Law exist, his detention extends by 90 days from the moment of his asylum application. In both scenarios, if the asylum proceedings have not been concluded during the period of 60 or 90 days and the grounds justifying detention still exist; detention can be extended up to six months (Aliens Protection Law, article 89(1)-(5)).

In 2015, the average length of detention was 65.8 days.³⁷ The average length of detention in 2010 was 59 days in guarded centres and 69 days in “deportation arrests” detention facilities.³⁸ In 2013, the maximum period of detention was 363 days.³⁹

In 2010, the [UN Human Rights Committee](#) expressed concern at the absence of specific laws concerning the detention of foreigners after the deadline for their expulsion and that some have been detained in transit zones beyond the deadline of their expulsion without a court order. The committee urged Poland to limit the length of detention in transit zones and that any extension of detention be based on a court order.⁴⁰

observations of the Human Rights Committee, Poland, CCPR/C/POL/CO/6, 15 November 2010, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/PLIndex.aspx>.

³⁷ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>.

³⁸ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

³⁹ Jacek Białas et al (Helsinki Foundation for Human Rights and Association for Legal Intervention), *Still behind bars: Report on the Monitoring of Guarded Centres for Foreigners by the Helsinki Foundation for Human Rights and the Association for Legal Intervention*, 2014, http://programy.hfhr.pl/uchodzcy/files/2014/06/PUBLIKACJA_wci%C4%85%C5%BC-za-kratami-ENG_5.8-1.pdf.

⁴⁰ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee, Poland*, CCPR/C/POL/CO/6, 15 November 2010, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/PLIndex.aspx>.

Procedural guarantees. Under both the Foreigners Law and Aliens Protection Law, migration-related detention is to be ordered and extended by a district court, upon request of the Border Guard. Both pieces of legislation provide also for a hearing of a non-citizen before the court takes the decision (Foreigners Law, articles 401(1) and 410(1), Aliens Protection Law, 88(b)(1)). The migrant shall be informed by the court, in a language he understands, about the grounds of his detention, procedures, and his rights (Foreigners Law, article 402(2), Aliens Protection Law, 88(b)(4)).

The extension of detention by court constitutes a de facto automatic review of detention.⁴¹ Foreign nationals have the right to appeal detention and its extension to the court. The appeal shall be made within seven days of receiving the order and the court has seven days to examine the request (Foreigners Law, article 403(8), Aliens Protection Law, 88(b)(3)). Local NGOs, however, have observed that the appeals procedure can be complicated and that appeals are rarely filed.⁴² The Foreigners Law explicitly provides for the right to compensation for unlawful detention (Foreigners Law, article 407(1)).

HFHR reports that asylum seekers are entitled to request free legal assistance for the review of detention, based on the Code of Penal Proceedings.⁴³ The Aliens Protection Law provides that when ordering detention of an asylum seeker, the court shall inform him about this entitlement (article 88(b)(4)). However, according to HRHR, in practice most asylum seekers are not aware of this possibility or of the way to fill in the form in Polish. A state legal system for asylum seekers was supposed to begin working since January 2016.⁴⁴ Detained non-citizens who have not applied for international protection are not granted legal counsel free of charge. However, legal assistance is often provided by NGOs.⁴⁵

Alternatives to detention. When deciding on a detention order, the court is supposed to consider non-custodial measures (Foreigners Law, article 401(5); Aliens Protection Law, 88(b)(2)). The Foreigners Law provides for four such measures: regular reporting to the Border Guard, paying a bail, relinquishing travel documents, and/or residing in an indicated place of residence (article 398(3)). The Aliens Protection Law lists the same measures, except from handling in the travel documents (article 88(1)).

⁴¹ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>; Halina Niec Legal Aid Center (HNLAC), *Raport o stosowaniu detencji wobec osob starajacych sie o nadanie statusu uchodzczy w Polsce*, December 2010, http://www.pomocprawna.org/images/stories/pomoc_uchodcom/Raport_o_detencji.pdf.

⁴² Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011; Halina Niec Legal Aid Center (HNLAC), *Raport o stosowaniu detencji wobec osob starajacych sie o nadanie statusu uchodzczy w Polsce*, December 2010, http://www.pomocprawna.org/images/stories/pomoc_uchodcom/Raport_o_detencji.pdf (accessed 10 October 2012).

⁴³ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>.

⁴⁴ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>.

⁴⁵ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

In 2014, the European Commission observed that residence restrictions and reporting duties were not applied in practice.⁴⁶ In 2011 HFHR noted that alternatives to detention of irregular migrants were generally rarely applied in practice.⁴⁷

There appears to be some evidence that the adoption of alternatives has led to decreases in the detention of certain groups. For instance, Border Guard data shows that after the introduction of alternatives measures in 2014, the number of detained children decreased by more than 40 percent.⁴⁸

Criminalization. Irregular stay and non-compliance with a return decision are subject to fines (Foreigners Law, article 465(1)). The Petty Offences Code provides also that irregular entry is subject to a fine. The Code sets the maximum amount of the fines at 5,000 PLN (approximately 1,140 Euro).⁴⁹ However, reportedly, in practice fines are imposed very rarely.⁵⁰

Regulation of detention conditions. The Foreigners Law lays down several rules related to place and conditions of detention. Immigration detainees are to be held in “deportation-arrests” (*areszt dla cudzoziemcow*) or “guarded centres” (*strzezone osrodki*). Non-citizens are to be placed in deportation arrests if there is a risk that they will not comply with the rules governing guarded centres (article 399). However, in 2011 the HFHR observed that in practice, this provision was not interpreted in a coherent way and that officials often lacked a firm understanding of the categories of non-citizens to be placed in different kinds of facilities. Reportedly, foreigners who break the law are accommodated in guarded centres while those who stay in Poland irregularly for a long period of time without committing any crimes are held in deportation-arrests.⁵¹ Both guarded centres and deportation-arrests can hold asylum seekers and irregular migrants; however, asylum seekers are rarely held in deportation-arrests, and only if it is deemed necessary for state security or public safety.⁵²

⁴⁶ European Commission, *Communication from the Commission to the Council and the European Parliament on EU Return Policy*, COM(2014)199, March 2014, [http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com\(2014\)0199/com_com\(2014\)0199_en.pdf](http://www.europarl.europa.eu/meetdocs/2009_2014/documents/com/com_com(2014)0199/com_com(2014)0199_en.pdf).

⁴⁷ Jacek Bialas (Helsinki Foundation for Human Rights), *Detention of irregular migrants in Poland*, November 2011, <http://fra.europa.eu/fraWebsite/frc2011/docs/detention-presentation-HR.pdf>.

⁴⁸ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>.

⁴⁹ European Union Agency for Fundamental Rights (FRA), *Criminalisation of migrants in an irregular situation and of persons engaging with them*, 2014, <http://fra.europa.eu/en/publication/2014/criminalisation-migrants-irregular-situation-and-persons-engaging-them>.

⁵⁰ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

⁵¹ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

⁵² Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Email exchange with Michael Flynn* (Global Detention Project), September 2010.

Upon the admission to the detention facility, the detainee must be informed in a language he understands about rights and obligations, as well as the rules of stay in the facility (articles 411 and 417(1)). In 2011, the UN Human Rights Committee expressed concern that detained foreigners are often unable to learn about their rights, as boards containing such information are often displayed only in offices and interrogation rooms and only in Polish, and some interpreters are not sufficiently qualified to translate. The committee recommended Poland to ensure that non-citizens have easy access to information on their rights, in a language they can understand, even if this requires the provision of a qualified interpreter.⁵³

Detained foreign nationals have the right to health care, including hospitalization and medication, contact with close persons, legal representatives, Polish authorities, diplomatic representatives and NGOs, uninterrupted nine hour sleep per day, clothing and shoes, and access to internet and library (article 415). Men and women as well as children are to be accommodated separately, while families are to be placed together (article 414). Non-citizens held in deportation-arrests are to be provided the opportunity to walk outside for two hours daily (article 416(3)). According to the HFHR, this provision is generally respected.⁵⁴ Detainees in guarded centres are allowed to move freely within the facility (article 416).

The 2015 Ordinance of the Ministry of Interior and Administration on the guarded centres and detention centres for foreigners ([*Rozporządzenie Ministra Spraw Wewnętrznych w sprawie strzeżonych ośrodków i aresztów dla cudzoziemców*](#)) spells out detailed regulations of detention facilities. Rooms in the guarded centres and cells in the deportation arrests are to have heating, ventilation, beds, shelves for personal belongings, tables and chairs. The cells in the deportation arrests are closed from outside (§6 and 17). Rooms for non-citizens in the guarded centres and cells in the deportation-arrests are not to be smaller than 3 square metres per male detainee, and 4 square metres per female or minor (§11). The Ordinance provides that immigration detainees shall receive three meals per day, including one hot meal. It establishes detailed rules regarding daily dietary allowances based on a detainee's age. For example, adults are to receive meals and beverages of at least 2,600 calories per day; daily caloric intake is for minors 12-18, sick, as well as pregnant and breastfeeding women is to be 2,600-3,400 (§23).

⁵³ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee, Poland*, CCPR/C/POL/CO/6, 15 November 2010, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/PLIndex.aspx>.

⁵⁴ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Detention Facility Documentation: Guarded Center and Arrest for the Purpose of Expulsion in Biala Podlaska*, 8 July 2011; Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Detention Facility Documentation: Guarded Center and Arrest for the Purpose of Expulsion in Bialystok*, 8 July 2011; Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Detention Facility Documentation: Guarded Center and Arrest for the Purpose of Expulsion in Ketrzyn*, 8 July 2011; Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Detention Facility Documentation: Guarded Center and Arrest for the Purpose of Expulsion in Klodzko*, 8 July 2011; Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Detention Facility Documentation: Guarded Center and Arrest for the Purpose of Expulsion in Przemysl*, 8 July 2011.

Under the Foreigners Law, immigration detainees are entitled to bring complaints to the authority in charge of the facility regarding conditions of detention and treatment (article 415(1)). Complaints, however, appear to be rarely made. Between January 2008 and March 2011, 13 complaints were lodged in Biala Podlaska guarded centre, all of which were considered unfounded. During the same period, three complaints were filed in Ketrzyn, one in Warsaw, two in Krosno Odrzanskie, and none in Przemysl, Bialystok, and Klodzko detention facilities.⁵⁵

Cost of detention. The total cost of Poland's immigration detention operations in 2010 amounted to around 9 million Euro. Approximately 7.6 million Euro was spent on staff and half million on the maintenance of the infrastructure.⁵⁶

DETENTION INFRASTRUCTURE

Like most EU countries, Poland uses specialized detention facilities to confine non-citizens on immigration-related grounds. As explained above (see "Regulation of detention conditions"), Poland operates two main types of dedicated facilities that can be used for long-term administrative detention of non-citizens for immigration-related reasons: "deportation-arrests" (*areszty w celu wydalenia*) and "guarded centres" (*strzezone osrodki*). A key difference between them are their security regimes. The deportation-arrests are characterized by their more severe internal security regime when compared to guarded centres.⁵⁷

As of November 2015, Poland was operating eight dedicated immigration detention centres (six guarded centres and two deportation arrests), with a combined capacity of 558.⁵⁸ This is a decrease from 2013, when there were 12 centres with a total capacity of 881.⁵⁹ As of January 2013, a short-term 30-person holding centre in a transit area at the Warsaw International Airport was also in use.⁶⁰

⁵⁵ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

⁵⁶ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

⁵⁷ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

⁵⁸ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>; Paweł Michniewicz (Ministry of Interior, Migration Policy Department), Response to Global Detention Project/ Access Info Questionnaire, 30 April 2013.

⁵⁹ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2013; Norbert Rafalik, *Cudzoziemcy ubiegający się o nadanie statusu uchodźcy w Polsce – teoria a rzeczywistość (praktyka) (stan prawny na dzień 31 grudnia 2011 r.)*, Centre of Migration Research, Working Paper 55/113, March 2012, <http://www.migracje.uw.edu.pl/publ/1808/>.

⁶⁰ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011; Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2013.

Deportation arrests. Until the early 2000s, the most common type of detention centres were deportation-arrests, which were located in police stations and Border Guard units. As of 2009, however, the police no longer operated immigration detention facilities, all of which came under the operation of the Border Guard. In contrast to the guarded centres, the deportation-arrests were criticized for mixing administrative detainees with criminal detainees before operations at the centres were transferred to the control of the Border Guard.⁶¹

The number of deportation-arrests has decreased significantly in recent years. The Global Detention Project identified some two dozen deportation-arrests in operation during the period 2007-2008 (see [Poland Detention Profile: December 2009](#)). As of January 2013, Poland operated only six such facilities, with a total estimated capacity of 136.⁶² By November 2015, the number of deportation arrests had declined to two—one in **Bialystok** and one in **Przemysl**—with a combined capacity of 48.⁶³

Guarded centres. The number of guarded centres has increased. Prior to joining the Schengen zone, Poland had only one guarded centre for aliens, located in Lesznowola. Established in 1996, the centre had been run by police until the Border Guard took over its management in 2008.⁶⁴ In preparation for Poland's formal entry into Schengen, four new guarded centres were opened in the eastern part of the country by early 2008 (where most asylum seekers are apprehended): in Biala Podlaska, Bialystok, Ketrzyn and Przemysl.⁶⁵ Construction of these centres was funded in part by the European Fund for Asylum Seekers.⁶⁶ In addition, in January 2009 the Krosno Odrzanskie deportation-

⁶¹ European Parliament, *The Conditions in Centres for Third Country National (Detention Camps, Open Centres, as well as Transit Centres and Transit Zones) with a Particular Focus on Provisions and Facilities for Persons with Special Needs in the 25 EU Member States*, December 2007.

⁶² Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Detention Facility Documentation: Arrest for the Purpose of Expulsion in Klodzko*, 8 July 2011; Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Detention Facility Documentation: Arrest for the Purpose of Expulsion in Warsaw*, 8 July 2011; Norbert Rafalik, *Cudzoziemcy ubiegajacy sie o nadanie statusu uchodzczy w Polsce – teoria a rzeczywistosc (praktyka) (stan prawny na dzien 31 grudnia 2011 r.)*, Centre of Migration Research, Working Paper 55/113, March 2012, <http://www.migracje.uw.edu.pl/publ/1808/>.

⁶³ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>; Paweł Michniewicz (Ministry of Interior, Migration Policy Department), Response to Global Detention Project/ Access Info Questionnaire, 30 April 2013.

⁶⁴ Norbert Rafalik, *Cudzoziemcy ubiegajacy sie o nadanie statusu uchodzczy w Polsce – teoria a rzeczywistosc (praktyka) (stan prawny na dzien 31 grudnia 2011 r.)*, Centre of Migration Research, Working Paper 55/113, March 2012, <http://www.migracje.uw.edu.pl/publ/1808/>.

⁶⁵ Jesuit Refugee Service (JRS) and Caritas Poland. "Poland" in *Civil Society Report on Administrative Detention of Asylum Seekers and Illegally Staying Third Country Nationals in the 10 New Member States of the European Union*, December 2007, <http://www.detention-in-europe.org/images/stories/10%20nms%20report%20final.pdf>.

⁶⁶ European Parliament, *The Conditions in Centres for Third Country National (Detention Camps, Open Centres, as well as Transit Centres and Transit Zones) with a Particular Focus on Provisions and Facilities for Persons with Special Needs in the 25 EU Member States*, December 2007.

arrest, located on the country's western border, was converted to a guarded centre for aliens.⁶⁷

As of November 2015, there were six guarded centres in operation, located in **Biała Podlaska** (Nadbużanski Border Guard Division), **Białystok** (Podlaski Border Guard Division), **Ketrzyn** (Warmińsko-Mazurski Border Guard Division), **Krosno Odrzańskie** (Nadodrzański Border Guard Division), **Lesznowola** (Nadwiślański Border Guard Division) and **Przemysł** (Bieszczadzki Border Guard Division).⁶⁸ Their estimated total capacity was 510,⁶⁹ down from 745 in January 2013.⁷⁰

All guarded centres have two blocks, for men and families. Family blocks also confine women and unaccompanied minors. In 2012, authorities began attempting to place detainees in different centres according to their gender and age; in 2013, the Ministry of Interior declared this an official policy. There have been modifications in the assignation of centres to particular gender or age group over time. As of November 2015 the situation was the following: In Ketrzyn there was a specific section for unaccompanied minors, which consisted of a separate floor intended for them that included recreation rooms. Unaccompanied children were confined in Ketrzyn or Biała Podlaska. Families with children were also held in one of these two centres or in Przemysł, if children were not at a school age. Women were confined in Przemysł and Biała Podlaska. In Białystok, Krosno and Lesznowola only men were held.⁷¹

⁶⁷ Norbert Rafalik, *Cudzoziemcy ubiegający się o nadanie statusu uchodźcy w Polsce – teoria a rzeczywistość (praktyka)* (stan prawny na dzień 31 grudnia 2011 r.), Centre of Migration Research, Working Paper 55/113, March 2012, <http://www.migracje.uw.edu.pl/publ/1808/>.

⁶⁸ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>; Paweł Michniewicz (Ministry of Interior, Migration Policy Department), *Response to Global Detention Project/ Access Info Questionnaire*, 30 April 2013; Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011.

⁶⁹ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>.

⁷⁰ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), 28 January 2013; Norbert Rafalik, *Cudzoziemcy ubiegający się o nadanie statusu uchodźcy w Polsce – teoria a rzeczywistość (praktyka)* (stan prawny na dzień 31 grudnia 2011 r.), Centre of Migration Research, Working Paper 55/113, March 2012, <http://www.migracje.uw.edu.pl/publ/1808/>.

⁷¹ Helsinki Foundation for Human Rights (HFHR), *Country report: Poland*, Asylum Information Database (AIDA), November 2015, <http://www.asylumineurope.org/reports/country/poland>; Jacek Białas et al (Helsinki Foundation for Human Rights and Association for Legal Intervention), *Still behind bars: Report on the Monitoring of Guarded Centres for Foreigners by the Helsinki Foundation for Human Rights and the Association for Legal Intervention*, 2014,

http://programy.hfhr.pl/uchodzcy/files/2014/06/PUBLIKACJA_wci%C4%85%C5%BC-za-kratami-ENG_5.8-1.pdf; Ministry of Interior, *Informacja o stanie realizacji praw osób osadzonych w strzeżonych ośrodkach dla cudzoziemców prowadzonych przez straż graniczną*. [Information on the respect of the rights of persons held in guarded centres for foreigners managed by the Border Guard], January 2013,

<https://bip.mswia.gov.pl/bip/komunikaty/21835.dok.html>; Jacek Białas et al. 2012, *Migracja to nie*

uzbrodnie. *Report z monitoringu strzeżonych ośrodków dla cudzoziemców* [Migration is not a crime: report on the monitoring of guarded centres for foreigners], Association for Legal Intervention and Helsinki Foundation for Human Rights, December 2012, <http://interwencjaprawna.pl/18-grudnia-sip-i-hfpc-opublikowaly-raport-z-monitoringu-osrodkow-strzezonych-dla-cudzoziemcow-migracja-to-nie-zbrodnie/>;

Norbert Rafalik, *Cudzoziemcy ubiegający się o nadanie statusu uchodźcy w Polsce – teoria a*

In addition, single men were usually accommodated according to their ethnic origin, for instance in the Przemysl facility one part of the corridor held only non-citizens from Caucasus. In Bialystok, the criteria for placement were language and religion.⁷²

Conditions of detention. In January-February 2014, the HFHR and the Association for Legal Intervention carried out monitoring visits in all six guarded centres.

The organizations found that the general technical condition of most centres was adequate, with Lesznowola being in the worst condition. Most of the rooms confined two to five people at a time and were equipped with metal beds, tables and cabinets. In Krosno there was also a TV in each room. Rooms are not locked. The centres also have recreation rooms and kitchens where detainees can prepare meals. Detainees were able to move about the facilities during the day.

Staffing was found to be generally adequate. While the attitude of personnel towards detainees was considered positive, in Przemysl centre staff still addressed detainees by reference numbers (see below). A widespread problem related to communication difficulties between staff and detainees due to lack of foreign language skills. Access to interpretation varied across the centres.

In Biala Podlaska, Lesznowola and Przemysl detainees received only basic information about their legal situation; in Bialystok, Ketrzyn and Krosno made more of an effort to explain the content and consequences of official letters delivered to detainees.

Overall, the organizations found improvements in the conditions and treatment of detainees compared to previous visits.⁷³ (For information about the results of earlier monitoring visits carried out by local NGOs, government agencies, and the CPT, [see the GDP's 2013 profile on Poland](#), available at <https://www.globaldetentionproject.org/immigration-detention-in-poland-2>.)

Transit zone. As of January 2013 Poland operated a holding facility in the transit area of the **Warsaw International Airport**. The GDP has been unable to confirm the status of this facility as of 2016.

rzeczywistosc (praktyka) (stan prawny na dzien 31 grudnia 2011 r.), Centre of Migration Research, Working Paper 55/113, March 2012, <http://www.migracje.uw.edu.pl/publ/1808/>.

⁷² Jacek Białas et al (Helsinki Foundation for Human Rights and Association for Legal Intervention), *Still behind bars: Report on the Monitoring of Guarded Centres for Foreigners by the Helsinki Foundation for Human Rights and the Association for Legal Intervention*, 2014, http://programy.hfhr.pl/uchodzcy/files/2014/06/PUBLIKACJA_wci%C4%85%C5%BC-za-kratami-ENG_5.8-1.pdf.

⁷³ Jacek Białas et al (Helsinki Foundation for Human Rights and Association for Legal Intervention), *Still behind bars: Report on the Monitoring of Guarded Centres for Foreigners by the Helsinki Foundation for Human Rights and the Association for Legal Intervention*, 2014, http://programy.hfhr.pl/uchodzcy/files/2014/06/PUBLIKACJA_wci%C4%85%C5%BC-za-kratami-ENG_5.8-1.pdf.

Although the transit facility was originally intended to hold persons denied access to the country for a period not exceeding 24 hours, reports indicate that it has been used for periods that exceed this limit.⁷⁴ It reportedly has a maximum of capacity of 30, divided between three rooms, including one large room capable of accommodating 16 persons and two smaller rooms for six and eight persons respectively.

The GDP classifies this facility as “transit zone detention” because of its location at a port of entry in to the country, the repeated reports of use of the facility exceeding its short-term mandate, and the particular problems with respect to procedural guarantees that seem to result from the facility’s intended use as mechanism for preventing people from entering the country.

In 2010, the UN Human Rights Committee expressed concern that in some cases persons were held in this facility beyond the deadline of their expulsion without a court order. The committee urged Poland to ensure that the detention of foreigners in transit zones is not excessively protracted and that when it is extended, such measures should be based on a decision adopted by a court. The Committee also noted with concern reports of poor conditions in transit zone.⁷⁵

On the other hand, during its 2009 visit, the CPT found that the material conditions in the facility were generally adequate. It noted that besides bunk beds, the rooms were equipped with tables and chairs, had good access to natural light, were well ventilated, and had a call system. Yet, the CPT found that while migrants only very rarely were held on the premises overnight, in cases where they had to stay for extended periods of time, they were not provided with personal hygiene products. The CPT also criticized the failure to respect procedural safeguards. It noted that while detainees were in principle entitled to contact a lawyer; they were not allowed to meet this person. Although they could move freely within the detention area during the day, they were often granted only 15-30 minutes of outdoor exercise per day and there was no communal area. Moreover, the persons concerned were not systematically provided with a copy of the forms setting out the rights of persons who were denied access to the territory. Also, the recording of placements of migrants in the holding facility was inadequate, since in many cases no information on the identity of the persons concerned or the time during which they were held there were entered in the log book.⁷⁶

⁷⁴ Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Global Detention Project Questionnaire*, 8 August 2011; Maciej Fagasinski (Legal Assistance to Refugees and Migrants, Helsinki Foundation for Human Rights), *Email exchange with Izabella Majcher* (Global Detention Project), January 2013.

⁷⁵ Human Rights Committee, *Consideration of reports submitted by States parties under article 40 of the Covenant, Concluding observations of the Human Rights Committee, Poland*, CCPR/C/POL/CO/6, 15 November 2010, <http://www.ohchr.org/EN/Countries/ENACARRegion/Pages/PLIndex.aspx>.

⁷⁶ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), *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 26 November to 8 December 2009*, CPT/Inf (2011) 21, 12 July 2011, <http://www.cpt.coe.int/documents/pol/2011-20-inf-eng.pdf>.

Global Detention Project
3 rue de Varembe
1202 Geneva, Switzerland
globaldetentionproject.org
+41 (0) 22 733 08 97
admin@globaldetentionproject.org