

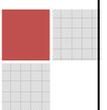
EMN



Policies on reception, return and integration arrangements for, and numbers of, unaccompanied minors in Poland

Prepared by: Polish National Contact Point to the European Migration Network

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Introduction

The interest in issues of unaccompanied minors in Poland, both on the part of state administration organs and non-governmental organizations has lasted for nearly a decade. In 2003, the Act on granting protection to foreigners within the territory of the Republic of Poland entered into force, with a separate chapter devoted to unaccompanied minors seeking to obtain the refugee status. Successive changes in the law were made in the following years in order to ensure the best possible care for this group of children. The problems faced by unaccompanied minors in Poland are also in the field of interest of the Ombudsman for Children¹, who during the nine years of his office's existence many times was engaged in solving the complicated individual cases and, on his own initiative, took actions aimed at the cognition and improvement of the situation of unaccompanied minors in our country².

This elaboration is an attempt to present the situation of unaccompanied minors in Poland, in particular those applying for refugee status or covered by any type of protection, unaccompanied minors without a normalized legal status and foreign children identified as victims of trafficking in human beings. The report concerns mainly on the minor third country nationals. Issues connected with the situation of unaccompanied minors being European Union citizens are tackled only when it is indispensable for obtaining a better picture of the situation of foreign children in Poland.

The problem of unaccompanied foreign children appeared in Poland as a consequence of the opening of borders and growth of migration movements after 1989. Initially, for most immigrants, Poland was mainly a transit country on the road to the states of Western Europe, offering – in their opinion – greater integration aid and better living conditions for both adults and children. Currently, in numerous cases, Poland is also a destination country. Alas, also extreme situations happen, where minors in Poland are forced to beg and prostitute.

The analysis of the problems of unaccompanied minors is not an easy task. The difficulty stems from the fact that there is no single institution which would be actually responsible for gathering data on unaccompanied minors coming to Poland and staying on its territory. For example, based on the available data, in 2008, 376 minors aged below 18 applied for the refugee status. However, this is neither the number of minors from other countries staying in

¹ The institution of the Ombudsman for Children was established by the Act on the Ombudsman for Children dated 6 January 2000. The Ombudsman's task is to take care of children's rights defined in the Constitution of the Republic of Poland, the Convention on the Rights of the Child and other legal provisions, with the respect for parents' responsibility, rights, and duties. The Ombudsman takes up actions envisaged in the law on his own initiative, taking into account information pointing to the violation of children's rights or good.

² <http://www.brpd.gov.pl/>

Poland without real guardianship nor the number of minors in the refugee procedure actually staying on the territory of the Republic of Poland³. It is also known that, in 2008, 163 foreign children stayed in care centers but only 76 of them stayed there for at least one year. Many of them, within a short period of time, leave the centers going in an unknown direction. According to the employees of various state institutions and non-governmental organizations, the children “vanish” from the state-owned centers for the following reasons: sometimes they try to migrate to Western European countries, especially when their relatives live there already⁴; it happens that the children join their family members living in Poland without labour or residence permits, or simply run away from the care centre because they feel alienated and not comfortable there. Regardless of the reasons, each getaway from the care centre exposes the juvenile minor to a considerable risk.

Due to the risk to which unaccompanied children arriving in a foreign country are exposed, during border control, Border Guard officers attach special attention to juvenile and underage persons independently of whether they are traveling under the guardianship of adults or not, and whether they are third countries nationals or have the right to free movement on the EU/Schengen territory.

There is no uniform legislation in Poland regulating the situation of unaccompanied minors in a comprehensive manner. The status of foreign children staying on the Polish territory varies depending on whether their stay is legal or not. In the case of minors seeking refugee status, it may be said that they were the first to have their legal situation provided for in the Polish legislation, that is why it is definitely the best.

Poland applies the so-called single procedure concerning the refugee status. During the proceedings, the migration organs examine not only the fulfillment of conditions required to be considered a refugee in the understanding of the Geneva Convention of 1951, but also – if it is determined that these conditions are not fulfilled – other circumstances justifying the need to cover the foreigner with subsidiary protection or grant a permit for tolerated stay resulting in the protection against expulsion. The refugee or subsidiary protection status constitutes a foundation for the legalization of residence and granting aid in order to support the foreigner’s integration with the society in the spirit of and in line with the principles defined in the law on public aid.

³ Cf. - subchapter “The number of unaccompanied minors”

⁴ One of the reason for this phenomenon is that many aliens to whom such a possibility is offered are not interested in learning the Polish language and attending Polish schools.

In the case of children under state care for a short period of time, it is impossible to guarantee them something more than temporary attendance, not to mention integration. However, in the case of unaccompanied minors, who, for various reasons will actually stay on the Polish territory, the question of their integration is a challenge requiring the securing of such measures which would match the specific needs of this group.

Undoubtedly, access to free education (above high school level) is best regulated in legal and organizational terms. Questions of aid granted by local authorities for children staying in care centers and in foster families are also legally regulated. However, an important problem is to find a solution ensuring all unaccompanied minors an easier access to health benefits. No less important is the possibility of legalizing the stay of foreign children present on the territory of the Republic of Poland born outside this territory, who do not fulfill the premises for being granted refugee status or any other form of protection.

The legal situation of children not having Polish citizenship, who are victims of trafficking in human beings, is not completely provided for in the Polish system, and the procedures of proceeding with them are not always uniform. It should be stressed, however, that actions aimed at working out a model of proceeding in the case of children victims of trafficking in human beings have already been undertaken within the inter-ministerial Committee for Combating and Preventing Trafficking in Human Beings, run by the Undersecretary of State in the Ministry of Interior and Administration⁵.

Since unaccompanied minors have no legal capacity to act, family courts appoint guardians for them as their representatives both during the proceedings before the guardianship court and during administrative proceedings, for example connected with the legalization of their stay in Poland or, possibly, connected with their expulsion.

In many cases however, finding family members and ensuring the child a safe return to the country of origin is in his the best interest.

Purpose and adopted methodology

The report was prepared by the Polish National Contact Point to the European Migration Network, within the framework of implementing the EMN Action Plan for 2008. The National Contact Point is composed of representatives of the Ministry of Interior and

⁵The Committee for Combating and Preventing Trafficking in Human Beings was established on 5 March 2004 pursuant to Ordinance No. 23 of the Prime Minister and serves as an auxiliary organ to the Prime Minister.

Administration (National Coordinator), the Office for Foreigners, Ministry of Labour and Social Policy, Border Guard Headquarters and the Central Statistical Office.

The bulk of work was done by the Migration Policy Department of the Ministry of Interior and Administration, whose tasks include, among others: the initiation and organization of undertakings aimed at popularizing knowledge of problems concerning state's migration policy and cooperation in the creation and implementation of integration policy towards immigrants. The individual parts of the report were made on the basis of information prepared by the Office for Foreigners, Border Guard Headquarters, Ministry of Labour and Social Policy, information obtained from the Ministry of Education and following consultations with the employees of Orphanage No. 9 in Warsaw, the Centre for Aliens seeking refugee status or the asylum⁶ in Dębak near Warsaw, the Warsaw Bureau of the International Organization for Migration (IOM), Clinic of Law of the University of Warsaw and the Nobody's Children Foundation⁷ – a non-governmental organization having the biggest experience in working with minors and in their favor⁸. Before writing the report, a review of legislation and elaborations that appeared in recent years devoted entirely or in part to the problems of unaccompanied minors was carried out⁹.

For the purpose of the report and in accordance with Article 2(f) of Council Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof¹⁰, the term unaccompanied minors means third-country nationals or stateless persons below the age of eighteen, who arrive on the territory of the Member States unaccompanied by an adult

⁶ For the purpose of this study the terms “asylum” and “refugee status” are both used in the meaning of Geneva Convention 1951 (international protection status). One should bear in mind that “asylum”, translated into Polish language as “azyl”, can have different meaning and then refers to a national protection status.

⁷ The Nobody's Children Foundation (FDN) (www.fdn.pl) since 2004 deals with problems of children – victims of trafficking in human beings and unaccompanied children. Implementing the program, the FDN takes part in the work of the working group operating within the framework of the National Program for Combating and Preventing Trafficking in Human Beings; carries out research projects and provides training and consultations for organizations and professionals; prepares publications concerning problems connected with trafficking in children. Apart from that, in the years 2004-2006, within the framework of the program of the Council of Baltic Sea Countries, the Foundation played the role of the Polish contact point for unaccompanied alien children and children – victims of trafficking in human beings. Since 2004, pursuant to the agreement signed with the then Office for Repatriation and Aliens, the Foundation carried out hearings of unaccompanied minors seeking refugee status in Poland.

⁸ Problems of unaccompanied minors is also within the scope of interest of other non-governmental organizations, such as the Helsinki Human Rights Foundation, the Legal Intervention Association, the Polish Migration Forum, the Legal Assistance Centre named after Halina Nieć and many others dealing with work in favor of refugees and immigrants.

⁹ Cf. Annex 3 - Bibliography

¹⁰ OJ L 212/12 of 7.08.2001

<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:32001L0055:EN:NOT>.

responsible for them whether by law or custom, and for as long as they are not effectively taken into the care of such a person, or minors who are left unaccompanied after they have entered the territory of the Member States.

The main goal of the report is to present the legal and actual situation of unaccompanied minors in Poland. The identification of gaps in the solutions in place is aimed at formulating recommendations and drawing the attention to areas requiring the introduction of new solutions or an improvement of the existing ones.

The report was prepared having in mind the EMN National Contact Points, the European Commission, political decision-makers on national and international level, parliamentarians, state administration organs, research centers, international institutions, non-governmental organizations and persons interested in the problems of unaccompanied minors.

The interest in problems of unaccompanied minors has been growing for several years now. This finds its reflection in the organization of conferences¹¹, the implementation of research projects devoted to that subject and – which is most important – in introducing legislative changes leading to improvement of the situation of alien children staying in Poland without parents or other adults responsible for taking care for them.

Two publications worth mentioning here appeared in the first months of 2009. The first is a Report being an effect of the “Project on the procedures and practice concerning the reception, protection, and treatment of unaccompanied minors” realized by IOM in six states: Austria, Belgium, Bulgaria, the Czech Republic, Romania and Poland. The strong point of the report is that it was elaborated with involvement of government administration representatives, employees of care and educational centers and other persons specializing in problems of minors. Thus, the documents present the legal and actual state, at the same time pointing to those areas which still require further work¹². The IOM report was elaborated at the turn of 2007 and thus it does not take into account the legal changes which occurred in Poland in effect of the amendment of two most important laws concerning aliens.

¹¹ It is worth mentioning that on 16 April 2009 the Ombudsman for Children, together with the IOM Bureau in Warsaw organized a conference “Reception, protection and treatment of unaccompanied minors”. The conference was attended by representatives of government institutions, the Office for Foreigners, Border Guard Headquarters, Ministry of Interior and Administration, the Police and also representatives of local Family Aid Centers, social assistance centers, care and educational centers and non-governmental organizations (Nobody’s Children Foundation, La Strada Foundation, Helsinki Human Rights Foundation and others).

¹² The report is a result of the project “Exchange of information and the best practices concerning the reception, protection and treatment of unaccompanied minors”, co-financed by the European Commission within the ARGO program. The text of the report is available on the IOM website: <http://www.iom.pl/res/files/raport.pdf>

Another important report is the Alternative Report to the Polish government's report on the implementation of the "Optional Protocol to the Convention on the Right of the Child, on the sale of children, child prostitution and child pornography" with reference to article 12(1) of the Protocol, elaborated in February 2009 by the Nobody's Children Foundation and the Helsinki Human Rights Foundation¹³.

The added value of this elaboration, in relation to the reports mentioned earlier, is undoubtedly its topicality (legal state as per 30.04.2009) and the attempt to comprehensive formulation of the problems of unaccompanied children, not only in the context of the threats facing those minors, like trafficking in children, for example. Apart from that, the report prepared by the Polish National Contact Point is an element of a comparative study aimed at showing the situation of unaccompanied minors in all European Union Member States.

Number of unaccompanied children in Poland

The analysis of problems of unaccompanied children is not an easy task. The difficulty stems from the fact that no national statistical data are available concerning unaccompanied children coming to Poland and staying on its territory. It is only possible to estimate the scale of the phenomenon by analyzing the existing data gathered by the individual institutions (care, educational, migration centers, etc.)¹⁴. It should be remembered that there is a numerous group of children whose presence is not registered in any way, and who can never be included in any statistics.

Additional difficulty is connected with the methodology of data gathering. One should remember, while analyzing fragmentary data, for example concerning foreign children in Poland staying in care and educational centers, those data refer both to the children who arrived in Poland from other states and those whose parents were aliens and whose children were born in Poland. Apart from that, among children staying in care institutions there are also children who have not been abandoned by their parents and their stay in this type of institution is a form of aid granted to the child and its family. It happens so when criminal proceedings are instituted against parents or when they were detained in order to be expelled

¹³ The report was elaborated by the Nobody's Children Foundation and the Helsinki Human Rights Foundation in cooperation with the Association for Children and Young People, Chance (Szansa), International Organization for Migration, Local Committee for the Protection of the Rights of the Child in Poznań; NASK Hotline, Dyzurnet.pl; Polish National Committee for UNICEF.

http://www.fdn.pl/repository/edytor_4/alternative_report.pdf

¹⁴ See Annexes 1-2

because of an illegal stay in Poland. After some time the children are taken away from such centers by their parents and together with them are expelled to their country of origin¹⁵.

Data from the Ministry of Labour and Social Policy concerning foreign children in foster custody (Annex 1), that is in intervention type centers, orphanages, foster families, etc., collected between 1 January 2008 and 31 December 2008, indicate that during the past year 163 unaccompanied alien minors (34 of them were children being EU citizens) stayed in the above-mentioned centers. Nearly one-third of them (55 children) stayed in the intervention type centers, which ensure the child temporary care in a crisis situation during the period of up to three months (maximum up to six months in a situation when legal proceedings were under way in order to settle the child's legal situation). 57 children stayed in foster families and 42 children in orphanages. Boys constituted the majority of children (93 boys and 70 girls).

While analyzing the figures regarding the refugee status procedure and the figures from the Office for Foreigners (Annex 2), one should bear in mind that the figures regarding the aliens of the age group from 0 to 13 also include newborn babies – minors of the parents under the procedure, born in Poland after their parents had applied for asylum (thus having proper parental custody). The problem results from the system adopted for the registering of such minors as applying for the refugee status by themselves, and not covered by the application lodged by their parents. Among the alien minors included in the figures there are also older minors remaining in Poland together with their relatives. Nevertheless, on the basis of the figures one can notice a systematic increase in the number of aliens under 18 years of age who have applied for asylum in Poland (in 2002 – 201 people, 2004 – 214 people, 2004 – 230 people, 2005 – 278 people, 2006 – 282 people, 2007 – 356 people, 2008 – 376 people). Minors account for about 45% of all asylum applicants, but as of today it is difficult to supply credible figures on how many of them are real unaccompanied minors within the meaning of Article 2(f) of Council Directive 2001/55/EC. However, the figures also indicate that the number of boys applying for asylum exceeds the number of girls (in 2002: 179 boys and 22 girls; in 2003: 150 boys and 64 girls; in 2004: 152 boys and 78 girls; in 2005: 158 boys and 120 girls; 2006: 155 boys and 127 girls; in 2007: 201 boys and 155 girls; in 2008: 200 boys and 176 girls).

¹⁵ Maria Kolankiewicz, „Dzieci cudzoziemskie bez opieki w Polsce”, w: „Dziecko krzywdzone. Teoria, badania, praktyka” Nr 12/2005. [Foreign children without a custodian in Poland”, in: „An abused child. Theory, research, practice” No. 12/2005]

According to the information obtained from one of the Warsaw orphanages, where unaccompanied minors applying for the refugee status are placed, there are about 10 children of that kind.

Educational institutions have information concerning alien minors attending Polish schools – however they do not distinguish a separate category of unaccompanied minors. Such data is usually kept only for information of the headmaster and teachers of the school attended by the minor¹⁶.

Due to the lack of credible statistical data to illustrate the scale and complexity of the migration of unaccompanied minors, it is extremely difficult to objectively prove significant changes in their number or in the pattern of influx in the recent years. It is justified, however, to assume that over the reported and documented interim influx¹⁷ of aliens into Poland preceding Poland's accession to the Schengen Zone (21 December 2007), unaccompanied minors could constitute a considerable group.

¹⁶ The problem of unaccompanied minor pupils was recognized as a result of economic migration of Polish people to EU member states after 2004. The term “euro-orphanhood” was first used to denote the phenomenon of leaving the minors behind (under the custody of other relatives or neighbours) by their parents migrating abroad. Attempts were made to examine the scale of the phenomenon and the results of the research have been published in the media, resulting in a public debate. One of its positive outcome was sensibilization of teachers' and school psychologists' to specific needs of minors who had been left alone, which also positively sensitized people who encounter unaccompanied minors.

¹⁷ Poland's accession to the Schengen Zone resulted in an increased number of applications lodged in 2007 in the Republic of Poland for granting the refugee status. 4563 applications were lodged in 2007. In total 10,048 people were referred to in the refugee status applications. In comparison to 2006 there was an increase in the number of lodged applications by about 45% and an increase in the number of people applying for the refugee status by about 41%. Clear growth trends were noted in the months directly preceding the accession to the Schengen Zone. For example: in September 2007 478 applications were lodged with 1,087 people involved, in October there were 473 applications with 1,023 people, in November – 572 applications with 1,354 people, in December 1 028 applications with 2,466 people.

In the first place the tendency resulted from the aliens' fear that once Poland had accessed the Schengen Zone entering this country and applying for the refugee status would become difficult or even impossible. Meanwhile, the access to the status procedure had not been restricted in any way. Hence, as a result of the “dampened atmosphere” accompanying Poland's accession to the Schengen Zone, in the year 2008 the number of applications for the refugee status has fallen to 4,154 (with 8,517 people involved). After 21 December 2007 an increasing trend was observed in the number of the aliens under the Office's and seeking refugee status who were wilfully leaving the care centers. Usually such people after exiting the territory of Poland went to Austria, Germany and France, where they anew applied for the refugee status.

As a result of the obligations arising from the Council Regulation (EC) No. 343/2003 of 18 February 2003 establishing the criteria and mechanisms for determining the Member State responsible for examining an asylum application lodged in one of the Member States by a third-country national (the so-called Dublin II), in the year 2008 there was an increase in the number of applications lodged in Poland from other European Union Member States for accepting the people who had earlier applied for the refugee status in Poland. Up until 31 December 2008 3,601 such applications had been accepted (double the number of 2007), and 1,916 alien nationals had been directed to Poland (four-fold the number from 2007) – source:

<http://www.udsc.gov.pl/Polska.w.Schengen.566.html>

Motivations for entering Poland

As mentioned above, the problem of unaccompanied minors occurred in Poland as a result of the opening of the borders and the increase of migration traffic after 1989. Over the twenty years the image of Poland has evolved in the eyes of migrants from – initially – a transit country, to – more and more often – a destination country, which is often mentioned in many publications of that period. However, it seems inadvisable to attribute the motivations indicated by adult migrants when they decide to come to Poland, to minors who frequently got to Poland unaccompanied, and against or without their will.

Generally, it is difficult to talk about conscious motivations for entering Poland in the case of minors. One can rather assume the motivations of adults who intentionally agreed for departure of their children from the country of origin to Poland frequently without being able to assess the risks they exposed their minors to once they entrusted them to the custody of other adults, or once they contributed to departure of their minors through gross neglect of their parental duties. One can also try to guess why such parents left the children after arrival to Poland or after they were born at a Polish hospital.¹⁸

Authors of many publications devoted to foreign minors most frequently write about economic motivations of their parents – a will to secure a better future for the children, a future that could not be guaranteed by their country of origin, sometimes a will to secure a better standard of living for themselves and for other members of the family, unfortunately at the cost or for the price of their minor. Sometimes it is a fear for not being able to provide their minor with sufficient protection – it is when a journey into the unknown or under the custody of other adults seems to be an alternative to the uncertain internal situation of the country of origin. Apart from many cases of running away from real dangers, which according to the Polish authorities justify the indispensability of granting the refugee status or other form of international protection, there are situations of abusing the so-called “refugee path”: a minor is sent in order to obtain the refugee status, and then an arrival of the remaining members of the family is organized in order to try to legalize their stay by way of the family reunification procedures.

Small minors are unable to explain why they have entered a foreign country. Older minors, teenagers – especially if they come to Poland unlawfully – seldom report the real reasons for which they have left their countries, frequently because the reasons are known

¹⁸ According to the figures of the Ministry of Labour and Social Policy, 12 of 163 minors placed in the foster custody were transferred from hospitals where they were left directly after birth.

only to the adults arranging the arrival, but most often because of the lack of confidence in the representatives of the Polish institutions¹⁹. Another important feature is a language barrier that disables any communication.

In the case of people applying for the refugee status the reason for leaving their country of origin is fleeing from conflicts and persecutions and an intention to improve their standard of living. In this group, also including minors, since 2003 the majority have been nationals of the Russian Federation (mostly of Chechen origin). Among minor aliens, whose residence in the territory of the Republic of Poland is illegal, the numerous group is that of nationals of Vietnam and Ukraine. In the cases of confirmed victims of trafficking in human beings there have been Romanian, Bulgarian and Moldavian minors.

Legal representative of unaccompanied minor

If a minor's parents are dead or deprived of parental custody or if the parents are unknown, a legal custodian can be appointed for the minor. Polish family courts are unable to appoint a legal custodian if a minor is deprived of parental custody only because his parents reside in the territory of another country.

Since minors have no legal capacity to act, it is necessary for the court to appoint a guardian as a legal representative of a minor for the procedure before the guardianship court as well as for the administrative procedures connected for example with legalization of his residence in Poland, or with his deportation²⁰.

A guardian can be an NGO representative²¹, a representative of a minor's country of origin's diplomatic post, or a social worker. Guardians for the purpose of the procedure to

¹⁹ According to the 2008 figures of the Ministry of Labour and Social Policy alien minors were brought to care institutions mainly by the Police (55 cases), and in 15 cases brought by the Border Guard officers (for 163 minors placed in various institutions). Of the 163 cases in 87 cases a stay was shorter than one year – for 34 minors their stay lasted from 2 to 6 months, 37 minors stayed for a period shorter than 1 month. Special attention should be paid to short-term stays of minors in the intervention institution – up to 5 days. That regards 31 minors, including 10 girls and 21 boys. The predominating group of the aforementioned is composed of minors from Romania at the age from 10 to 16. The minors were brought to the institution by the Police or Border Guard.

²⁰ Cezary Skwara, „Analiza pozycji dziecka cudzoziemskiego w postępowaniu przed sądem opiekuńczym, z uwzględnieniem ofiar handlu ludźmi”, [An analysis of the status of an alien minor in the procedure before the guardianship court, including victims of trafficking in human beings.]

²¹ Since January 2009 the Helsinki Human Rights Foundation has been implementing the project “Prawnicy na rzecz uchodźców IV” [Lawyers for refugees IV] in cooperation with the Public Affairs Institute, the Legal Intervention Association, the Polish Migration Forum Foundation, the Foundation for the Law-governed State, the Law Clinic of Warsaw University and the Law Clinic of Jagiellonian University. Within the framework of the project assistance is provided to aliens applying for the refugee status in Poland and to persons who have acquired the refugee status or another type of international protection, considering the specificity of especially

grant the refugee status are often law students acting as part of the Warsaw University Law Clinic.²²

Entering Poland, border inspection

The terms and conditions for entering the territory of Poland, for transit through the territory, residence in the territory and departure from the territory by aliens – nationals of third countries – are set out in the Act of 13 June 2003 on Foreigners.²³ As a general rule, the regulations apply to all aliens, with certain modifications related to the situation of refugees, alien minors, and unaccompanied minors in particular.

An alien can enter the territory of Poland and reside within that territory if he/she possesses a valid travel document and a valid visa, unless the regulations regarding aliens provide otherwise.²⁴ An alien possessing a residence permit for a fixed period, a permit to settle or a long-term resident's EC residence permit, and a residence card issued in connection with an acquired permit, can enter the territory of Poland repeatedly without the necessity to obtain a visa each time.²⁵

In the case of transit to another country an alien can be required to present an entry permit and a residence permit for that country.²⁶

An alien can be issued a uniform visa (a residence or transit visa) or a national visa.²⁷

sensitive groups (unaccompanied minors, single parents, women, elderly and the disabled). The way assistance is provided is adjusted to individualized needs of aliens. In the case of unaccompanied minors the assistance includes representation in the administrative procedure of the granting of the refugee status, and also participation in status interviews. The project is co-financed with the resources from the European Refugee Fund (source: <http://www.hfhrpol.waw.pl/program-10.html>).

²² The Law Clinic of Warsaw University has been active providing legal assistance to aliens since 1999. In 2000 on the initiative of the UNHCR it started providing legal assistance to alien minors as the so-called local partner to the organization. Since the year 2005 it has carried out the project of free legal assistance with the use of the resources of the EFU. Assistance is addressed to aliens applying for the refugee status as well as to those who have already acquired a form of protection in Poland. At the beginning of every academic year applications are collected from students who want to get involved in providing legal assistance for aliens. The key factor is their motivation for working with aliens and the language skills, mainly Russian, in order to communicate with beneficiaries. The students take a one- or two-day long psychological training course including such questions as intercultural communication and take part in seminars where they get familiarized with the asylum law. Then the list of students who have agreed to work as guardians is transferred to the district court. The students at all times remain under supervision of scholars of the Warsaw University Law Faculty. Assistance is provided by volunteers. It should be noted that students' assistance and their commitment to the cases of unaccompanied minors are valued very highly. There have been cases of students who having completed a one-year-long cooperation with the Law Clinic decide to "maintain contact" and continue working for aliens.

²³ Act of 13 June 2003 on Foreigners (consolidated text Journal of Acts of 2006, No. 234, item 1694 with amendments).

²⁴ The question of visas is referred to in Chapter 3 of the aforementioned Act on Foreigners.

²⁵ In accordance with Article 72 Item 2 of Act on Foreigners, a residence card in the period of its validity shall confirm the identity of an alien during his stay in the territory of the Republic of Poland and together with a travel document shall entitle to multiple border crossings without the need to acquire a visa each time.

²⁶ Article 13 of Act of 13 June 2003 on Foreigners.

Minors crossing the external border are subject to the same entry and exit clearance as adults are. However, in accordance with item 6.1 of Annex VII (“Special terms concerning specific categories of persons”) of the Schengen Border Code²⁸ and on the basis of the Border Guard’s internal regulations, at the border control the Border Guard officers pay special attention to minors and juveniles regardless of whether they travel under adult’s care or alone, or whether they are third country nationals or they exercise the right to free movement within the EU/Schengen territory.

Minors can cross the border on the basis on their own valid passport or their parent’s or custodian’s passport, under whose custody they travel, if those documents include minor’s data, depending on the national law. According to Polish law, a minor should have a separate passport.²⁹

If the aforementioned persons are subject to the visa requirement, a visa should be issued jointly for the adult and the minor. If there is no such information in the adult’s visa, an official takes further steps to determine the status of the adult traveling with a minor. If an adult person possesses a visa covering also a minor or minors, and travels without a minor or minors, an official performing the border control makes an appropriate note in the domestic database (which concerns only third country nationals subject to the visa requirement).

EU Member State nationals crossing the external border are – in accordance with the Schengen Border Code regulations – subject to the minimum border clearance procedure, however a Border Guard officer can perform random checks on them. Even in the case of EU Member State adult nationals, that is persons exercising the right to free movement, and traveling with minors, a Border Guard officer is obliged to pay special attention to minors and juveniles. In the case of any doubts or well-grounded suspicions, he is entitled to perform

²⁷ A uniform residence visa shall entitle to one or more entries on condition that the length of a continuous stay or the length of consecutive stays in the territory of the Schengen states does not exceed 3 months over the period of 6 months starting on the day of the first entry into that territory. A uniform transit visa entitles to a temporary stay in the transit zone of an international airport and to pass through the territory of Poland and other countries of the Schengen Convention on the way to another country outside the Schengen area on condition that the transit period does not exceed 5 days.

A national visa entitles to entry and a continuous stay in the territory of Poland or to several consecutive stays which jointly last over 3 months and do not exceed 1 year in the period of the validity of a visa.

A uniform visa is valid in the territory of the Schengen states. However, a uniform visa can be issued of a limited territorial validity, e.g. in the situation when a travel document of an alien national is recognized only in the territory of selected countries of the Schengen Convention.

²⁸ Regulation (EC) No. 562/2006 of the European Parliament and the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (the Schengen Borders Code)

²⁹ Act of 13 July 2006 on Passport Documents (Journal of Laws No. 143. Item 1027).

random checks on such persons (adults and minors traveling together), including running a check in the domestic database and in the Schengen Information System (SIS).

All issues concerning the rules of document issuance for minors are governed by the regulations of the country of origin.

In accordance with point 6.2 of Appendix VII to the Schengen Border Code, in the case of minors traveling in custody of an adult, a Border Guard officer shall perform a check whether a person (or persons) accompanying the minor(s) has parental custody or legal custody over them. Where minors are accompanied by only one adult and there are serious grounds for suspecting that they may have been unlawfully removed from the custody of the person(s) legally exercising parental custody over them, the Border Guard officer shall carry out further investigations in order to determine whether the information provided by adults is true. Such investigations shall also include running checks in the databases (both domestic and SIS).

In accordance with point 6.3 of the aforementioned Appendix, in the case of minors travelling without the company of adults (traveling alone), border guards shall ensure, by means of thorough checks on travel documents and supporting documents and of database checks, that the minors do not leave the territory against the will of the person(s) having parental custody over them.

To that extent, if a minor is in a possession of a valid passport, but travels with an adult who is not his parent or custodian, it is acceptable for the adult to present a written authorization from the parents on the basis of which the minor is allowed to travel with a given person. In case of any doubts, a Border Guard officer shall be entitled to take steps in order to make sure if the authorization is valid, and to run checks in the databases (domestic and SIS).

A Border Guard officer shall be allowed to perform controlling activities in relation to aliens also inside the territory of the country (in order to verify the lawfulness of their residence or employment). As part of the so-called police type control provisioned in the Schengen Border Code he shall be entitled to control persons exercising the right to free movement, including Polish nationals and nationals of other EU Member States. In the case of controlling adults traveling with a minor, a Border Guard officer shall be entitled to perform activities in order to make sure the information presented by the parent or custodian is true.

In accordance with the European Commission recommendations of 6 November 2006, "Practical handbook for border guards (Schengen handbook) addressed to appropriate bodies in the member states performing control activities at the border" and following the initiative

of the Portuguese Presidency³⁰, at the Border Guard Headquarters a national contact point has been established for consultations regarding minors.³¹

When crossing Poland's external borders (or just after arrival in Poland), an alien minor is allowed to apply for the refugee status. The relevant body to accept such an application is a commanding Border Guard officer of the border crossing point.

Residence in territory of Republic of Poland

As mentioned before, there is no legal act in Poland that in a complex way regulate the situation of unaccompanied minors, although many regulations of various legal acts are applicable.³² The situation of alien minors residing in the territory of Poland differs depending on whether their residence is legal or not. For the purposes of this report, and given the status of residence of a minor in Poland, the following groups may be distinguished: unaccompanied minors who apply for the refugee status in Poland; unaccompanied minors who have been provided with a form of protection in Poland; unaccompanied minors of unregulated legal status, and unaccompanied minors identified as victims of trafficking in human beings. However, as mentioned before, in Poland there are unaccompanied minors who are EU nationals and alien minors from other groups than the aforementioned ones (e.g. minors orphaned by their parents in Poland, or alien minors left after birth in Polish hospitals, or staying in an orphanage as a result of a family court's decision, or staying with a foster family).

Procedure for granting refugee status to unaccompanied minors

In the case of an unaccompanied minor applying for the refugee status it can be stated that his/her legal status is definitely the best in comparison with other aliens, due to the fact that it was regulated in the Polish legislation at the earliest. The terms, conditions and measures of granting protection to aliens, including unaccompanied minors, in the territory of Poland and competent bodies are set out in the Act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland (Journal of Laws of 2003, No 128, item 1176).³³

A minor is allowed to apply for the refugee status at the border of Poland or after arrival in Poland (irrespective of whether the residence in the territory of Poland is legal or not). Such

³⁰ Doc. 12216/3/07 REV 3 FRONT 86 COMIX 715 dated 9.01.2008

³¹ The post is situated at the unit of Border Guard Headquarters called "Zarząd Graniczny" (e-mail: zg.kg@strazgraniczna.pl, wez.zg@strazgraniczna.pl).

³² The regulations concerning unaccompanied minors are mentioned in Appendix 3.

³³ The aforementioned Act conforms to the binding EU Acts regarding asylum/refugee regulations.

an application is accepted by the Border Guard organs. The first instance body investigating the application is the Head of the Office for Foreigners, appeals lodged are investigated by the Refugee Council (second instance authority).

The Border Guard shall accept an application for the refugee status, determine the identity of an unaccompanied minor, take a photograph of him, and fingerprints of the person who is at least 14. It also acquires information regarding the country of origin, visas or residence permits issued to the applicant by the bodies of other countries, transit routes to the border and border crossing points, applicant's or his family member's applications for the refugee status, personal data of the member of the applicant's family who resides in the territory of another Member State. The body accepting the application shall also be obliged to determine whether the applicant possesses documents entitling him to cross the border or whether he lawfully resides in the territory of the Republic of Poland. A Border Guard official shall inform him on the principles and measures for the purpose of granting the refugee status, respective rights, duties and organizations which deal with providing assistance to refugees.

Should there be any doubts as for the age of an alien minor it is allowable – with his consent – to perform a medical examination in order to determine the age of a minor.³⁴ In most cases an X-ray image is taken of the wrist or the shoulder and the condition of the teeth is examined. A doctor performing the examination shall determine the maximum permissible error including the anatomic features relevant to a given race. If the minor refuses his/her consent to an examination, he/she is treated as an adult.

A Border Guard officer shall be obliged to produce an alien minor detention report and he shall apply to the court with request for appointment of a custodian to represent the minor in the procedure for the refugee status and for the placement of the minor in a residential-care institution.³⁵ The court shall not indicate a specific institution where the minor should be directed to, but only the type of institution. However, in practice minors are placed in Orphanage No. 9 in Warsaw, because its staff have many years of experience in working with

³⁴ Article 30 sec. 1 of the Act on granting protection to foreigners within the territory of the Republic of Poland: An alien who passes himself off as a minor, in the case of doubts regarding his age can undergo with his consent or his statutory representative's consent a medical examination in order to determine his actual age.

2. The examination result shall indicate the age of the person under examination and determine the maximum permissible error.

3. An alien who passes himself off as a minor and refuses to consent to a medical examination referred to in sec. 1, shall be recognized as an adult.

4. Medical examinations shall be provided by the Head of the Office, and if the doubts regarding the age of an alien appear on application – by the body accepting the application.

³⁵ If the circumstance that an applicant for the status of refugee is an unaccompanied minor is disclosed during the asylum procedure, the aforementioned application is lodged by the Head of the Office for Foreigners.

alien minors.³⁶ The costs of the minor's stay in the facility and the medical expenditures until the completion of the refugee determination are incurred by the State Treasury as part of the budget allocated for the Head of the Office for Foreigners at the disposal of the minister relevant for internal affairs. The minor is also provided with psychological assistance.

After an application for the refugee status has been lodged and until the procedure has been completed, the unaccompanied minor is provided with an ID document (a temporary alien identity certificate) which confirms his identity and entitles him to reside in the territory of the Republic of Poland.

An important part of the procedure for granting the refugee status is an interview with a minor carried out in order to determine the facts crucial for the result of the case. For several years, in accordance with the recommendations of UNHCR, such interviews have been carried out in the friendly way for the minor, with the use of recording devices, in order to avoid unnecessary repetition of unpleasant pieces of information for the minor. During such an interview a minor is accompanied by a custodian, psychologist or an educationist, who produces an opinion report on the psychophysical condition of the minor; a minor is also allowed to ask for participation of an adult indicated by him/her. Since the interview must be carried out in the language understandable for the minor, assistance of an interpreter is secured, a person not only familiar with the language, but also with the cultural realities of the country the minor comes from. Each interview shall be preceded with careful preparations in order to ensure how to acquire necessary information in the least traumatic way. Good cooperation between psychologists and officials of the Office for Foreigners is very important, and it is also important to avoid questions which could cause very difficult emotions in a minor.³⁷

As mentioned before, in Poland a single asylum procedure is applied. In the procedure not only the fulfillment of the conditions of recognition as a refugee within the meaning of the Geneva Convention of 1951 are examined, but also – in case these conditions haven't been met – other circumstances justifying granting to an alien a subsidiary protection (or a permit for tolerated stay). A decision concerning the granting of the refugee status shall be made

³⁶ From September 2002 alien minors applying for the refugee status were placed in a specially arranged unit at the Foreign Nationals Centre for persons applying for the refugee status or for asylum in Dębak near Warsaw and at the Refugee Home (in Marywilska Street in Warsaw) run by a Polish NGO, the Polish Humanitarian Action. Later on they are directed to two other orphanages.

³⁷ Katarzyna Fenik, "Dziecko czy uchodźca? Program przesłuchań dzieci cudzoziemskich bez opieki" w: „Dziecko krzywdzone. Teoria, badania, praktyka” Nr 12/2005 [“A minor or a refugee? An interview program for unaccompanied minors” in: “An abused child. Theory, research, practice” No. 12/2005].

within 6 months from the date of submitting the application³⁸. Unfortunately, according to statistical data, most procedures for granting the refugee status in the case of alien minors are discontinued, or an application is not examined, probably due to the fact that the applicants do not follow further procedures or leave Poland before the procedure completes.

Legalization of residence of unaccompanied minors

As far as the possibilities of legalizing the residence are considered, it should be underlined the importance of consecutive amendments to the Act of on Foreigners and the Act on granting protection to foreigners within the territory of the Republic of Poland leading to better regard to the needs of unaccompanied minors. As a result, this group of aliens may legalize their residence through the procedure for granting the refugee status, or – if there are no grounds for that – by applying for a residence permit for a fixed period.

In the decision refusing the refugee status, the Head of the Office for Foreigners (or the Council on Refugees in the second instance) may decide to:

- subsidiary protection – if an alien does not meet conditions for granting the refugee status, but his/her return to the country of origin may expose him to a real risk of serious harm through a death sentence or execution, torture, inhuman or degrading treatment or punishment, serious and individual threat to life or health resulting from endemic violence against civilians in a situation of an international or internal armed conflict.³⁹
- permit for tolerated stay⁴⁰ – a national status of protection granted whenever an expulsion of an alien could only be effected to the country where his right to life, freedom and personal security would be at risk, where he/she could be subjected to torture or inhuman or degrading treatment or punishment or be forced to work or deprived of the right to a fair

³⁸ An alien who does not meet the conditions for the refugee status shall be provided with a subsidiary protection if his return to the country of origin may expose him to a real risk of serious harm and because of the risk he cannot or does not want to use the protection of the country of origin. Should the alien be refused the refugee status and a subsidiary protection, he shall be granted the permit for a tolerated stay in the territory of the Republic of Poland – if his expulsion could only be effected to the country where his right to life, freedom or personal safety would be at risk or would violate his right to a family life or the rights of the minor to the extent of considerably violating his psychophysical development.

³⁹ Council Directive 2004/83/EC dated 29 April 2004 on minimum standards for the qualification and status of third country nationals or stateless persons as refugees or as persons who otherwise need international protection and the content of the protection granted – OJ L 304, 12-23 30.09.2004

⁴⁰ A permit for tolerated stay can also be granted by the voivod in the procedure for expulsion of an alien ex officio if the voivod finds out at least one circumstance justifying the granting of the status; in an expulsion decision or in a separate decision if such circumstances were disclosed after an expulsion decision had been issued; or whenever an expulsion of an alien is impossible for reasons independent of the authority enforcing the expulsion decision and of the alien himself. A voivod can also grant a permit for a tolerated stay upon a motion of the body competent for implementation of an expulsion decision issued by an organ of another member state applying the Council Directive no. 2001/40/EC of 28 May 2001 on the mutual recognition of decisions on the expulsion of third country nationals, if at least one of the circumstances justifying the granting of the status occurs.

hearing or punished without legal sanction within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms adopted in Rome on 4 November 1950; whenever an expulsion would violate the right to a family life within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms, or would violate the rights of the minor set out in the Convention on the Rights of the Child adopted by the UN General Assembly on 20 November 1989, to the extent seriously threatening his/her psychophysical development; or if an expulsion is unfeasible for the reasons independent of the body implementing the decision on expulsion of an alien.

After 5 years of uninterrupted residence in the territory of Poland from the moment the refugee status or subsidiary protection was granted, and 10 years from the moment the status of a tolerated stay was granted an alien shall be granted a permit to settle for a definite period of time.

In the procedure not related to granting of protection, the first stage of residence legalization is application for a residence permit for a fixed period, whenever there are grounds for an alien's residence in Poland for the period longer than 3 months. Most often the circumstances indicated by the foreigners applying for this type of residence are: family reasons, employment, or studying in Poland. The general principle is that residence permits for a fixed period are at all times granted for the period indispensable for an alien to realize the purpose of stay in Poland, not longer however than 2 years. Another stage may be granting of a permit to settle or a long-term resident's EU residence permit – both permits are granted for an indefinite period of time.

In the case of a residence permit, the legislator provided that it may be granted to an alien's minor child born in the territory of Poland, residing unaccompanied in this territory⁴¹ as well as to a juvenile minor of an alien possessing a residence permit for a fixed period in the territory of Poland. Thus, in the case of unaccompanied minors born outside Poland the aforementioned regulation shall not be applicable.

From the perspective of this report – the Act on foreigners provides for two important circumstances related to granting a residence permit for a fixed period to an alien residing in Poland illegally: the first one is “an exceptional personal situation” requiring an alien presence in the territory of Poland; and the second – a recognition made by a body competent

⁴¹ Article 53 Item 1 No. 8 of the Act of 13 June 2003 on Foreigners (consolidated text Journal of Laws of 2006, No. 234, Item 1694 with amendments).

for procedures concerning combating trafficking in human beings that a given third country national is probably a victim of trafficking in human beings.⁴²

If an alien, a victim of trafficking in human beings, resides in the territory of Poland and has agreed to cooperate with bodies competent for combating trafficking in human beings and severed any contact with persons suspected of that crime, he/she shall be granted a residence permit for a fixed period of 6 months.

Social assistance

The amendments introduced in 2007 into the Act of 12 March 2004 on social assistance have opened up legal possibilities to protect unaccompanied minors in the territory of Poland. At present, among the tasks delegated by the government to municipalities⁴³, there is the financing of alien minors' stay in 24-hour educational-care centre and with foster families, irrespectively of their residence status in Poland. Furthermore, the Act on social assistance guarantees that every alien minor residing in the territory of the Republic of Poland without a legal representative shall be provided with assistance by the Starosta (District Officer) competent with respect to the place of a minor's stay. The municipality where a minor has been found directs him to a competent educational-care centre.

In accordance with article 20 sec.1 point 5 of the Act of 12 March 2004 on social assistance, the financing of the stay of alien minors in 24-hour educational-care centres and with foster families is a task delegated by the government administration to be carried out by the municipality and financed with the Treasury targeted subsidy.

Stay in educational-care centres

As mentioned before, in Poland it is the family court that indicates the type of institution where unaccompanied minors are placed. Polish family courts adjudicate on the basis of Family and Guardianship Code⁴⁴ and bilateral international agreements including provisions on court competence and proper laws regarding relationships between parents and children. Taking into account the interest of the minor as the highest priority, the judge shall try to determine all the circumstances connected with specificity of a minor's family

⁴² Within the meaning of the Framework Decision of the Council of 19 July 2002 on combating trafficking in human beings (Journal of Laws EC L 203 of 01.08.2002)

⁴³ *Powiat* (municipality) is a local authority unit in Poland. It was introduced as a result of the administration reform in 1999. At present, the territory of Poland is divided into 16 provinces, 379 municipalities and 2478 communes.

⁴⁴ Journal of Laws of 1964, No. 9 Item 59 with amendments.

conditions, and - if needed – can require assistance from diplomatic posts in acquiring indispensable documents.⁴⁵

Unaccompanied minors shall be placed in educational-care centres or with foster families. As a rule, the alien minors applying for the refugee status are placed in orphanages,⁴⁶ and alien minors of irregular status – are in the first place directed to intervention centres. If a minor is detained while committing a punishable act, he is directed to the Police minors detention centre. When an alien minor is admitted to an intervention centre it is often unknown whether he has parents residing in Poland, or whether he is really an unaccompanied minor. An adjudication of the family court, or a Police or Border Guard protocol constitutes usually the basis for admission to the centre. Most frequently detentions of minors take place when they try to commit punishable acts, and as a result of regular street trade controls, begging, or a suspicion of prostitution. A stay in this kind of institutions is short-term as a rule – it lasts from several hours to several days, and then usually an arbitrary absconding occurs. Minors who are completely alone, whose parents are impossible to find and it is impossible to determine their place of residence, most frequently are placed to stay with foster families, adoption families and family orphanages. Minors are placed with foster families when their parents have no interest in their fate or when there is no possibility to deprive the parent of their parental rights.⁴⁷

According to the aforementioned figures published by the Ministry of Labour and Social Policy for 2008, for every 163 alien minors 55 minors were placed in an intervention centre, 42 – in an educational-care centre, 57 – with foster families, and 9 – in a family institution.⁴⁸

⁴⁵ The above remark does not naturally concern the cases of applying for protection – all activities concerning persons in the refugee procedure are confidential and subject to protection of such persons' personal information. During the procedure it is not allowed to make personal data available, especially to the authorities of the country of origin of the minor applying for the refugee status. The reason for that is to avoid exposing the family of the minor to problems in the country of origin.

⁴⁶ By virtue of the rules it is not allowed to place them in the guarded centres or in the arrests.

⁴⁷ Maria Kolankiewicz, "Dzieci cudzoziemskie bez opieki w Polsce" w: "Dziecko krzywdzone. Teoria, badania, praktyka" Nr 12/2005 ["Foreign children without a custodian in Poland", in: „An abused child. Theory, research, practice” No. 12/2005]

⁴⁸ In accordance with the Ordinance of Minister of Labour and Social Policy of 19 October 2007 on educational-care centres (Journal of Laws of 2007, No. 201 Item 1455), an intervention centre shall provide a minor with immediate care for the time of a crisis situation, access to education adjusted to his age and developmental capabilities, access to psychological-pedagogical assistance. The intervention centre accepts minors from 11 years of age who are in the situations requiring provision of immediate guardianship and upbringing. In exceptional cases it can accept younger minors; it can also specialize in caring for infants prepared for adoption. A family institution is a 24-hour residential institution of the family type which forms a single family made up of more than one child for the minors for whom no foster or adoption family has been found and which brings up minors of various ages providing them with education and compensating their developmental and educational difficulties.

Integration programs

The access to the integration measures mostly depends on the legal status of an unaccompanied minor in Poland. The refugee status or subsidiary protection is the basis for the granting of assistance in order to support the alien's integration with the society, the measures and terms are set out in the Act of 12 March 2004 on social assistance⁴⁹ The Polish law sets out the rights, guarantees the possibility to use the integration measures adjusted to the needs, to free education on the equal basis with Polish nationals and to additional Polish language courses. An individual integration program is arranged with a refugee including both individual needs of an alien and the actual possibilities a municipality has at its disposal. It is however up to the aliens concerned to what extent they use the opportunities, because – as mentioned above – the fact that many applications for the refugee status are left without examination, and many aliens in relation to whom it is Poland that is responsible for investigating their applications are transferred to Poland from other countries (in accordance with the Dublin Regulation), indicates that Poland is not always the country they perceive as their future home.

A characteristic example is the attitude of alien minors to learning Polish and to education in a Polish school. Teachers who have had contact with alien pupils indicate their quite universal lack of interest in learning, low level of attendance to school and the problem of “quitting” school from one day to the next.

Education

School education is obligatory from the age of 6 and concerns all aliens independently of their legal status and the basis of their residence in the territory of Poland. Alien minors who reside in Poland illegally or whose status is unknown for the time being also have access to free education.

A very positive change is worth pointing out in the scope of education that has been caused by the Act of 19 March 2009 on Amendment of the Act on the Educational System and Other Acts.

A specialist institution (an orphanage) provides the minor with 24 hours care and guardianship and provides for his indispensable needs. It also provides education and guardianship, therapeutic and other classes to compensate for family upbringing deficiencies and preparing for life in a community.

⁴⁹ Journal of Laws of 2008, No. 115 Item 728

As a result of the amendment the range of aliens entitled to use free education in the Polish secondary school has been extended, and included non-Polish nationals from outside EU Member States, in order to meet the demands put forward by NGOs and custodians of unaccompanied minors.

In accordance with article 94a of the Act on the Educational System, non-Polish nationals shall exercise education and guardianship in public kindergartens, and persons who are subject to obligatory education exercise education and guardianship in public primary schools, gymnasiums, public artistic school on the conditions equal to those regarding Polish nationals. Education in secondary schools is offered to: persons with the refugee status, persons possessing a permit for tolerated stay, and persons with the subsidiary protection status. There is also a possibility of education for non-Polish nationals who are not referred to in the Act, as scholarship holders who receive scholarships granted by e.g. the headmaster. Independently of the possibilities the law offers in practice there are problems resulting from the lack of command of the Polish language or poor knowledge among those minors who have resided in Poland since short period of time. Furthermore, in the case of refugees who as a result of war conflicts have not attended school, their inadequate educational attainment in relation to their age causes difficulties in qualifying them for appropriate grades in the Polish school.

The Act on the Educational System guarantees that alien minors who have no command of the Polish language or whose command is inadequate for education in the Polish school, have access to additional free Polish language courses organized by the commune in the territory of which a given alien resides. In practice, very few aliens are interested in such education. Another problem, especially in small townships, is the lack of appropriately educated teachers prepared to work with alien minors. In this context the importance of any initiatives aimed at furthering teachers' competences started by local educational authorities and NGOs should be appreciated.⁵⁰ The amendment to the Act on the Educational System intends to introduce solutions in order to facilitate alien minors' integration within the school community, and further on with the society. To that end from January 2010 it will be allowable to employ teacher assistants with command of the language of the aliens attending the classes. They shall support not only foreign language minors, but also the teachers dealing with such minors in their classes.

⁵⁰ Advice for teachers working with refugee minors is also available on the website www.uchodzcycydzkoly.pl

Medical care

In accordance with Article 3 Sec. 1 of the Act on Healthcare Services Financed With Public Resources dated on 27 August 2004 (Journal of Laws of 2008, No164, item1027) the persons insured are:

- 1) EU Member State national or national of one of the European Free Trade Association (EFTA) states residing in the territory of a EU Member State or one of the European Free Trade Association (EFTA) member state.
- 2) non-nationals of EU Member States and non-nationals of one of the European Free Trade Association (EFTA) states – party to the European Economic Area or Swiss Confederation, residing in the territory of the Republic of Poland on the basis of a visa with the purpose of employment, with a residence permit for a fixed period exclusive of the permit granted on the basis of Art. 53a Item 2 of the Act of 13 June 2003 on Foreigners (Journal of Laws of 2006 No. 234 Item 1694, with amendments), a permit to settle, a long-term resident's EC resident permit, a permit for tolerated stay or persons who obtained the refugee status in the territory of the Republic of Poland or subsidiary protection, or enjoyed temporary protection in its territory.

The costs of medical care provided to an unaccompanied minor who applies for the refugee status and resides in an educational-care centre or with a foster family are incurred by the Treasury as part of the budget allocated to the Head of the Office for Foreigners at the disposal of a minister relevant to internal affairs.

In the case of other unaccompanied minors residing in educational-care centres, medical care is provided on the equal basis with Polish nationals residing in such centres – the costs are incurred by the municipality where the centre is situated.

In so far as medical care in the case of aliens residing in Poland illegally, but out of educational-care centre, access to medical care itself is not the problem– as in emergency a medical care unit is obliged to provide medical assistance to anyone⁵¹, but the issue of incurring medical care costs later on.

In the face of the lack of regulations regarding this problem within the Polish law, in practice the medical treatment costs are incurred by the medical care unit, that is why there are situations when small patients of unregulated status are admitted very reluctantly – they are

⁵¹ In accordance with Article 7 of the Act on Healthcare Facilities of 30 August 1991, a medical care unit is not allowed to refuse medical assistance to a person who requires such assistance immediately because of life or health threatening circumstances (Journal of Laws of 2007, No. 14 Item 89).

perceived as “troublesome” and as a burden for the Polish medical care system.⁵² One of the solutions could be conclusion of international bilateral agreements regulating the questions of the costs for medical care provided to the nationals of states being a party to those agreements⁵³.

Actions undertaken in relation to children – victims of trafficking in human beings

Underage foreign citizens, victims of trafficking in human beings, are a specific group in a particularly difficult situation. Poland serves mainly as a transit country, but is also the country of origin, and ever more frequently the destination for child traffickers. No reliable data exists, however, to depict the true nature of the child trafficking phenomenon.

National legislation lacks a clear definition of trafficking in human beings, but on the international level there are regulations that define this procedure. As far as underage victims of trafficking are concerned, two following documents that Poland is a party to play the most important role:

- 1) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention against Transnational Organized Crime (the so-called Palermo Protocol) – ratified by Poland on 26 September 2003.
- 2) Optional Protocol to the Convention on the Rights of the Child, on the sale of children, child prostitution and child pornography – ratified by Poland in 2004.

⁵² The Ombudsman for Children as well as workers of the Ministry of Health and the National Health Fund agree that the problem of the limited access to medical services in non-life-threatening situations requires immediate attendance.

⁵³ Poland has entered into the following bilateral agreements:

- Agreement between the Ministry of Health and Social Welfare of the Republic of Poland and the Ministry of Health of the Republic of Albania on cooperation in the field of health protection and medical sciences;
- Agreement between the Ministry of Health and Social Welfare of the Republic of Poland and the Ministry of Health and Medical Industry of the Russian Federation on cooperation in the field of health protection and medical sciences;
- Agreement between the Ministry of Health and Social Welfare of the Republic of Poland and the Ministry of Public Health of the Republic of Tunisia on cooperation in the field of health protection and medical sciences;
- Agreement between the Republic of Poland and the Republic of Macedonia on social security;
- Agreement on social security between the Government of the People’s Republic of Poland and the Government of the Federation People’s Republic of Yugoslavia (at present observed by the Republic of Poland and Bosnia and Herzegovina, Serbia, Montenegro, Croatia).

Under those agreements all nationals of the aforementioned countries shall be provided with medical services irrespectively of whether they reside in Poland legally or not.

The legal situation of this group of children is not fully defined under the Polish system, and the procedures for handling them are not always coherent. Foreign children identified as individuals requiring help are usually referred to emergency-type care and educational-care centres, such as children's shelters, which are not suited to receiving victims of trafficking in human beings and to providing proper care. The staff of such facilities stress the difficulties in communicating with such children (the language barrier) and are helpless when faced with the phenomenon of mass escapes of children from the centres. A vast majority of underage foreign citizens staying in such facilities leave them willfully within a few days from being checked in. The procedure for verifying documents and family ties between a child and an adult reporting to the facility to take back the child is also imprecise.

The problem of high-risk children that may easily become victims of trafficking in human beings has long been a subject of interest from the State. It is worth highlighting that activities aimed at working out a model (system) of proceeding with child victims of trafficking in human beings were first undertaken by the Interministerial Committee for Combating and Preventing Trafficking in Human Beings, which was established on 5 March 2004 pursuant to the Ordinance No. 23 of the Prime Minister. The National Agenda for Combating and Preventing Trafficking in Human Beings for 2005-2006 and for 2007-2008 includes a provision related to developing a model for supporting / protecting the child – victim of trafficking in human beings. A group of experts on trafficking in children operating within the Working Group of the Interministerial Committee for Combating and Preventing Trafficking in Human Beings has been appointed to implement the action plan.⁵⁴ The main objective of the said expert group is to create a system for responding to trafficking in children⁵⁵. A number of consultation meetings have been organized at the initiative of the Migration Policy Department of the Ministry of Interior and Administration, also with

⁵⁴ The expert group is composed of the representatives of: Ministry of Interior and Administration, Police Headquarters, Border Guard Headquarters and the Nobody's Children Foundation.

⁵⁵ The system is to be made up of at least 4 elements:

- algorithm of activities (a set of guidelines) if an underage victim of trafficking in human beings has been identified – similar to the Algorithm of activities to be undertaken by law enforcement officers in the case of identifying a human trafficking crime, which is already in place (taking into account the specific character of proceedings concerning minors);
- identification questionnaire – mainly to be used by Border Guard and Police officers – which would be helpful in identifying underage victims;
- database listing coordinators for underage victims of trafficking in human beings, working in: voivodeship police headquarters, Border Guard divisions, voivodeship offices, shelter and educational facilities, nongovernmental organizations offering support in such cases.
- an information brochure – listing basic facts concerning child trafficking.

The aforementioned model is elaborated with participation of representatives of the Ministry of Labour and Social Policy, the Mazowsze Voivodeship Office, the Warsaw Center for Family Support and the La Strada Foundation.

representatives of the judiciary (mainly with judges presiding in cases with participation of underage persons), consuls and liaison officers from countries being the major sources of victims of trafficking in human beings (i.e. Belarus, Bulgaria, Moldova, Romania, Ukraine). The problem of trafficking in children is a permanent topic of all human trafficking related training programs that are organized by the Ministry of Internal Affairs and Administration⁵⁶. A network of child trafficking coordinators (experts) has been established – it is made up mainly of human trafficking coordinators from individual Voivodeship Police Headquarters and Border Guard Departments, and also by Voivodeship Office inspectors supervising shelter and educational facilities.

In 2008 there were two cases in which underage foreign citizens were qualified for the *Program for protecting and supporting victims/witnesses of trafficking in human beings*, whom the law enforcement agencies have identified as victims of trafficking in human beings. Those situations proved that there is no stable procedure in place in Poland that would define the manner in which a foreign child being a victim of trafficking in human beings should be handled. It is so because both the Program and the *Algorithm of activities to be undertaken by law enforcement officers in the case of identifying a human trafficking crime* were developed with adult victims in mind. It has also proved to be a serious problem to provide a safe shelter for the underage victims, as under the Polish law unattended minors must not be placed in shelters for adult victims of trafficking in human beings. Due to the fact that those children do not apply for the refugee status, they also cannot be placed in facilities for unattended minors, who undergo the refugee-related procedure.

Based on that experience and taking into consideration the fact that a low number of victims of this crime is identified in Poland annually, two places have been created, under a pilot project, in one of Warsaw's orphanages, exclusively for underage foreign citizens identified as victims of trafficking in human beings. An orphanage that was chosen employs staff experienced in working with children suffering from violence, and also capable of providing its inhabitants with safety, proper psychological care, and also education in the longer perspective. Thus, a safe and comfortable shelter has been created for the underage victims until they return to their home country.

⁵⁶ These are mainly specialized training programs targeted for human trafficking coordinators appointed in Voivodeship Police Headquarters, Border Guard Divisions, but also for prosecutors, judges and social workers.

Return, reintegration

According to the law, if a foreigner has been apprehended in the border zone immediately after crossing the border unintentionally and illegally, he/she may be taken back to the border line.

The Border Guard organ that has apprehended a foreigner due to his/her illegal crossing of the border takes his/her fingerprints (in the case of foreigners over 14 years of age), unless the foreigner has been immediately taken back to the border line.

Foreigners may return from Poland:

- voluntarily, due to the expiry of their residence document;
- under assisted voluntary returns;
- under returns related to the foreigner's obligation to leave the territory of the Republic of Poland provided for in the refusal to grant / withdrawal of the residence permit for a fixed period;
- under returns related to expulsion of an alien⁵⁷;
- under returns related to the foreigner's obligation to leave the territory of the Republic of Poland⁵⁸ (within 7 days, if the circumstances of the case indicate that the foreigner will voluntarily fulfill that obligation).

A decision on expulsion of a foreigner from the territory of the Republic of Poland is issued by a voivode, ex officio, or upon application of a competent authority, i.e. Border Guard,

⁵⁷ No expulsion decision is issued to a foreigner who holds a permit to settle or a long term resident's EC residence permit.

⁵⁸ A decision on the foreigner's obligation to leave the territory of the Republic of Poland is not issued to a foreigner:

- who is a spouse of a Polish citizen, or a foreigner who holds a permit to settle or a long-term resident's EC residence permit;
- who is staying on the territory of the Republic of Poland based on a uniform stay visa authorizing him/her only to enter the territory of the Republic of Poland for humanitarian reasons, due to the interest of the state or international obligations; or based on a residence permit for a fixed period, granted to a foreigner who has been staying on the territory of the Republic of Poland illegally, if the Polish law requires the foreigner to appear, in person, before a Polish public authority; an exceptional personal situation requires the foreigner's presence on the territory of the Republic of Poland; the interest of the Republic of Poland so requires; the organ relevant for conducting proceedings related to combating trafficking in human beings states that the foreigner is likely a victim of trafficking in human beings, as understood by the Framework Decision of the Council of 19 July 2002 on combating trafficking in human beings;
- who has been temporarily seconded to render services on the territory of the Republic of Poland, by an employer based on the territory of a European Union Member State, a member state of the European Free Trade Agreement (EFTA) – a party to the European Economic Area Agreement or the Swiss Confederation, authorized to stay and work on the territory of such a state – if he/she is staying in the territory without a valid visa, if one is required, or without a valid document authorizing him/her to enter and stay on the territory, or he/she has illegally crossed or attempted to cross the border.

The decision obliging a foreigner to leave the territory of the Republic of Poland is enforced with an immediate effect. The decision causes, by law, annulment of the visa, annulment of the local border traffic border crossing permit, annulment of the residence permit for a fixed period and annulment of the work permit.

Police, Minister of National Defense, Internal Security Agency, Intelligence Agency or the Customs Office.

Pursuant to art. 88 sec.1 of the Act of 13 June 2003 on Foreigners, a foreigner is issued a decision on expulsion from the territory of the Republic of Poland if:

- he/she is staying on that territory without a valid visa, if one is required, or without another valid document authorizing to enter and stay on the said territory;
- he/she has not left the territory of the Republic of Poland upon expiry of the permissible period of stay on the territory of the Schengen states (i.e. 3 months within 6 months from the date of the first entry);
- he/she was working in violation of the Act on Employment Promotion and Labor Market Institutions of 20 April 2004, or has taken up business activity in violation of the relevant provisions in force on the territory of the Republic of Poland;
- holds no financial means required to cover the cost of stay on the territory of the Republic of Poland and is not capable to indicate credible sources from which such means can be obtained;
- his/her data is on the list of foreigners whose stay on the territory of the Republic of Poland is not desirable, if the foreigner's entry to that territory takes place during such entry's validity period;
- his/her data is listed in the Schengen Information System for the purpose of refusing entry, if the foreigner is staying on the territory of the Republic of Poland based on a uniform stay visa or in visa-free regime;
- his/her further stay would pose danger to the defense or security of the state, or to the protection of public order and safety, or would violate the interest of the Republic of Poland (in this case the expulsion decision may be enforced immediately);
- has illegally crossed or attempted to cross the border;
- has failed to voluntarily leave the territory of the Republic of Poland within the deadline specified in the decision:
 - obliging him/her to leave the territory,
 - on the refusal to grant a residence permit for a fixed period,
 - on the withdrawal of the residence permit for a fixed period;
- is failing to meet the fiscal obligations towards the State Treasury;
- has completed a sentence issued in the Republic of Poland for a willful crime or a fiscal crime;

- has been sentenced, in the Republic of Poland, by means of a valid court ruling, to imprisonment, which sentence is executable, and reasons exist to conduct proceedings for transferring him/her abroad for the purpose of enforcing the sentence;
- is staying outside the border zone, in which he/she is allowed to stay pursuant to a local border traffic permit;
- is staying on the territory of the Republic of Poland after expiry of the stay period for which he/she was authorized pursuant to a local border traffic permit.

Enforcement of the decision on expulsion of a foreigner from the territory of the Republic of Poland is possible if the foreigner holds a travel document or if his/her identity has been confirmed by the relevant diplomatic post (by issuing a replacement travel document).

It is possible to issue a foreigner with a decision obliging him/her to leave the territory of the Republic of Poland within 7 days, if the circumstances of the case indicate that the foreigner will voluntarily comply with this obligation. The decision is enforceable immediately. The decision is issued by a commanding officer of the Police or a commanding officer of the Border Guard.

The foreigner is issued the decision obliging him/her to leave the territory of the Republic of Poland in the following cases:

- he/she is staying on that territory without a valid visa, if one is required, or without another valid document authorizing to enter and stay on the said territory;
- he/she has not left the territory of the Republic of Poland upon expiry of the permissible period of stay on the territory of the Schengen states (i.e. 3 months within 6 months from the date of the first entry);
- he/she was working in violation of the Act on Employment Promotion and Labor Market Institutions of 20 April 2004, or has taken up business activity in violation of the relevant provisions in force on the territory of the Republic of Poland;
- holds no financial means required to cover the cost of stay on the territory of the Republic of Poland and is not capable to indicate credible sources from which such means can be obtained;
- has illegally crossed or attempted to cross the border;
- is staying outside the border zone, in which he/she is allowed to stay pursuant to a local border traffic permit;
- is staying on the territory of the Republic of Poland after expiry of the stay period for which he/she was authorized pursuant to a local border traffic permit.

If the conditions justifying the issuing of a decision on expulsion from the territory of the Republic of Poland are met, or if the person concerned is failing to comply with the decision, the foreigner may be detained. Detention may last 48 hours as maximum and an alien must be released immediately once the cause of the apprehension ceases to exist or if the court so decides. Foreigners are taken into detention by the Border Guard or Police. The institution that has taken a foreigner into detention should immediately, depending on the circumstances, apply to court for placing the foreigner in a guarded centre or in the arrest for the purpose of expulsion. The foreigner is placed in a guarded centre if:

- it is necessary to efficiently carry out the expulsion proceedings or proceedings related to annulment of the permit to settle or the long-term resident's EC residence permit;
- justified assumptions exist that the foreigner will be avoiding complying with the expulsion decision or a decision on withdrawal of the permit to settle or the long-term resident's EU residence permit;
- he/she has illegally crossed or attempted to cross the border, unless he/she was immediately taken back to the border.

A foreigner is placed in the arrest for the purpose of expulsion in any of the aforementioned circumstances and if there are concerns that the foreigner will not comply with the rules in effect at the guarded centre.

Pursuant to art. 115 of the Act of 13 June 2003 on Foreigners, an unaccompanied minor staying in a guarded centre is placed in a separate part of such a centre, so that no contact with adults staying at the facility is possible.

However, pursuant to art. 88 sec. 1 of the Act on granting protection to aliens within the territory of the Republic of Poland, unaccompanied minors cannot be placed in a guarded centre or in the arrest for the purpose of expulsion, if the expulsion has been ordered in a decision on refusing to grant the refugee status.

In every case involving an underage foreign citizens all circumstances justifying their return are thoroughly analyzed. It is also important whether the stay of the underage foreigner was legal or illegal. Another circumstances taken into consideration are: the necessity to ensure a safe return, possibility of family reunification or that a minor will be released into custody of a relevant shelter institution in his/her country of origin. In certain cases, a formal expulsion from the territory of the Republic of Poland is the safest way in which a child may leave the territory of the Republic of Poland.

A quick return to the country and reunification with the family may be difficult if no interest is shown by diplomatic posts or when underage foreigners are staying in Poland illegally, or if they hold no relevant documents. In the case of refugees, the return option is usually, for obvious reasons, not taken into consideration at all.

Minors who are not citizens of the European Union and the European Economic Area may be expelled from Poland under certain conditions. Pursuant to art. 94 of the Act on Foreigners the decision on expulsion an underage citizen to his/her country of origin or to another country is enforceable only if the minor will be, in the destination country, under the custody of the parents, another adult citizen or shelter institutions, in line with the standards set out by the Convention on the Rights of the Child adopted by the United Nations General Assembly on 20 November 1989 (Journal of Laws of 1991, No. 120, item 526 and of 2000, No. 2, item 11). An underage foreigner may be expelled only under the care of a statutory guardian, unless the expulsion decision is enforced in a manner in which the underage citizen is handed over to the statutory custodian or to a representative of the relevant authorities of the state to which he/she is expelled.

Pursuant to art. 67 of the Act on granting protection to aliens within the territory of the Republic of Poland, an unaccompanied minor with regard to whom an expulsion order has been issued in the decision on refusal to grant the status of a refugee, shall remain at an educational-care centre until he/she is handed over to the country of origin's authorities or organizations whose statutory activity covers the issues related to minors. In such a case the cost of stay at the educational-care centre and the cost of medical care is financed by the state budget, from its part at the disposal of the minister relevant for internal affairs, from the resources at the disposal of the Commander in Chief of Border Guard.

Minors with irregular legal status are placed in an educational-care centre, or – as mentioned earlier – in a guarded centre.

In the case of European Union citizens, art. 69 of the Act of 14 July 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members⁵⁹ provides for a possibility of expelling an underage EU citizen beyond the borders of Poland if the welfare of the child so requires, in line with the Convention on the Rights of the Child of 1989.

⁵⁹ Journal of Laws of 2006, No 144, item 1043.

Due to the fact that in many cases it is impossible to reliably examine whether the minor would be provided with the custody of the parents or other adults or shelter institutions, in line with the standards set out by the Convention on the Rights of the Child, unattended minors often remain in Poland.

So far (as of May 2009) only one underage foreigner has used the opportunity offered by the program of assisted voluntary returns implemented by the Warsaw Office of the International Organization for Migration in cooperation with the Border Guard and the Office for Foreigners⁶⁰. Before the boy returned to his home in Chechnya, the International Organization for Migration contacted his family, and once it was confirmed that the return to the country of origin really was in the best of the child's interest, safe transportation of the boy was organized. More unaccompanied minors are expected to take advantage of such an opportunity in the near future.

Final remarks, recommendations, lessons learned

The number of unaccompanied minors who are staying in Poland is unknown, but it may be assumed that the scale of the problem is relatively small. The fact remains that there is lack of comprehensive regulation of their situation – similar to that concerning foreign children undergoing the refugee procedure.

It would be definitely easier to prepare system solutions if one could estimate the related financial expenditure based on the number of the potential beneficiaries. In order to get a better picture about the actual number of unaccompanied minors who are staying in Poland, it is necessary to collect and exchange, between the authorized organs, statistical data concerning such children. To this end, it would be advisable to reconstruct the existing POBYT⁶¹ IT system, so that it could generate data concerning unaccompanied minors. In addition, it is necessary to systematically maintain and generate statistical data concerning

⁶⁰ Agreement dated 12 July 2005 between the Minister of Interior and Administration and the International Migration Organization, related to the cooperation on voluntary returns of citizens leaving the territory of the Republic of Poland.

⁶¹ The POBYT IT system collects data on administration procedures concerning foreigners (inter alia granting permits to settle, residence permits for a fixed period, granting the refugee status or another form of protection, visas issued by voivodes, expulsions, persons related to repatriation proceedings, etc.). The users of the POBYT IT system include the Office for Foreigners, Citizens' and Migration Issues Departments of Voivodeship Offices, Border Guard units, Police, Ministry of Foreign Affairs and others. The maintenance of the System is the responsibility of the Head of the Office for Foreigners.

unaccompanied minors who are staying in educational-care centres, guarded centres, who have been apprehended by the Police and the Border Guard, and who learn in Polish schools.

For psychological reasons, mainly due to the fact that the feeling of safety of a child left alone is disturbed, it is of crucial importance who is taking care of an unaccompanied minor. At present, court verdicts are limited to determining the general character of the facility in which the minor should be placed, and no specific facility is named. It seems, however, that from the standpoint of the child's interest, the child should be placed in a facility whose staff has been properly trained and has experience in working with foreign children, and in which the minors would have access to comprehensive support: legal, medical, psychological, and also the help of an interpreter. Therefore, it would be recommendable to name several emergency shelter and educational facilities in each voivodeship and to direct the underage foreigners to those specialized facilities.

Based on the information collected for the purpose of this report, employees of educational-care centres and intervention centres are in need of training in the field of the legal status of unaccompanied minors, of the rights they are entitled to and the ways to exercise those rights, of the cultural differences and the threats that unattended minors are subject to (trafficking in human beings, sexual exploitation and other forms of abuse, etc.).

Employees of the Polish educational system also have a great responsibility here. Although in terms of legislative solutions the system is ever more tailored to the specific needs of foreign children, a number of problems are encountered in practice, which result from the language and cultural barrier, as well as from the lack of knowledge on the non-homogenous nature of a group of foreign children and the resulting different needs of individual children. Therefore, information on this specific group of foreigners consisted of unaccompanied minors needs to be disseminated among the largest possible group of teachers, tutors and school psychologists, so that they would be capable of doing more than just conveying knowledge in a traditional manner and show interest in what is happening to the children outside school. Attention of school staff has to be drawn to the specific and at times very difficult situation of foreign pupils, lacking the support of their parents or other relatives. It is also worth taking care for the need of professional education, participation in vocational courses, apprenticeships organized by trade guilds for those underage foreigners who stand little chance – due to a great educational drawback – of adapting to the Polish educational system.

While gathering information for the purpose of this report it turned out that the Polish healthcare-related legislation does not refer to the category of unaccompanied minors. Due to

the fact that proper development of all children, including unaccompanied minors, requires relevant preventive measures and quick diagnostics of potential illnesses, it is of utmost importance to find a solution that would provide underage foreigners who are staying in Poland illegally with easier access to free medical care. This issue calls for a systematic solution, so that decisions do not depend on the good will (or the lack thereof) of the medical staff.

The work on the Polish Migration Strategy, including assumptions of the country's migration policy – a document which is being developed by the Inter-ministerial Committee on Migration⁶² – is an opportunity to draw attention to the lack of systematic solutions concerning the situation of unaccompanied minors in Poland, and to undertake the relevant corrective measures. Due to its character, the Committee – an organ serving an advisory role to the Prime Minister and composed of representatives of the highest administration bodies in Poland – constitutes a forum in which assumptions of the comprehensive policy concerning foreign children could be discussed. Such discussions should take into consideration, on the one hand, the real capabilities of the state, and on the other – specific needs of unaccompanied minors. When implementing any regulations, one has to bear in mind one of the basic principles concerning unaccompanied minors, stating that “unaccompanied minors are entitled to equal treatment and equal rights as the children who are residents or citizens of a given country. Most importantly, they have to be treated like children. All aspects related to their immigration status should be of secondary character”⁶³.

⁶² The Inter-ministerial Committee on Migration was appointed pursuant to the Ordinance No. 12 of the Prime Minister dated 14 February 2007 on the creation of a the Inter-ministerial Committee on Migration. The Committee is an auxiliary organ of the Prime Minister. It is chaired by the Minister of Interior and Administration. Deputy chairs include undersecretaries of state from the Ministry of Interior and Administration and the Ministry of Labour and Social Policy appointed for that role. The Committee is composed of secretaries or undersecretaries of state from various ministries, as well as heads of other offices and institutions whose scope of competence is related to migration issues. The main objective of the Committee is to ensure the coordination of efforts and actions undertaken by governmental administration organs with regard to migration, to exchange information and to monitor the work carried out on the European Community level. The Committee's tasks include the following:

1. initiating legislative and institutional change related to migration and recommending such change to the Council of Ministers for the adoption of its standpoint thereon;
2. preparing proposals concerning modification of the current scope of competence related to migration;
3. issuing opinions on multiannual and annual national programs of the European Fund for the Integration of Third-Country Nationals;
4. suggesting direction of action for integration of foreigners in Poland;
5. exchanging information and monitoring the work carried out within the European Union in the field of migration;
6. cooperating with governmental administration organs, local governments and non-governmental organizations in the field of migration.

⁶³ The “Children without care in Europe” program, Good practice principles.
www.savethechildren.net/separated_children/good_practice/native/PL_Front_final.pdf

At the end it is worth stressing the fact that despite the positive changes that have taken place in the Polish legislation over the past few years and have regulated certain aspects of the functioning of unaccompanied foreigner minors in the Polish reality, it is still the good will, devotion and dedication of teachers, representatives of non-governmental organizations and volunteers that remains a crucial factor defining the quality of care offered to this group of children.

Annex 1 Data of the Ministry of Labour and Social Policy on the number of foreign children in foster custody in 2008

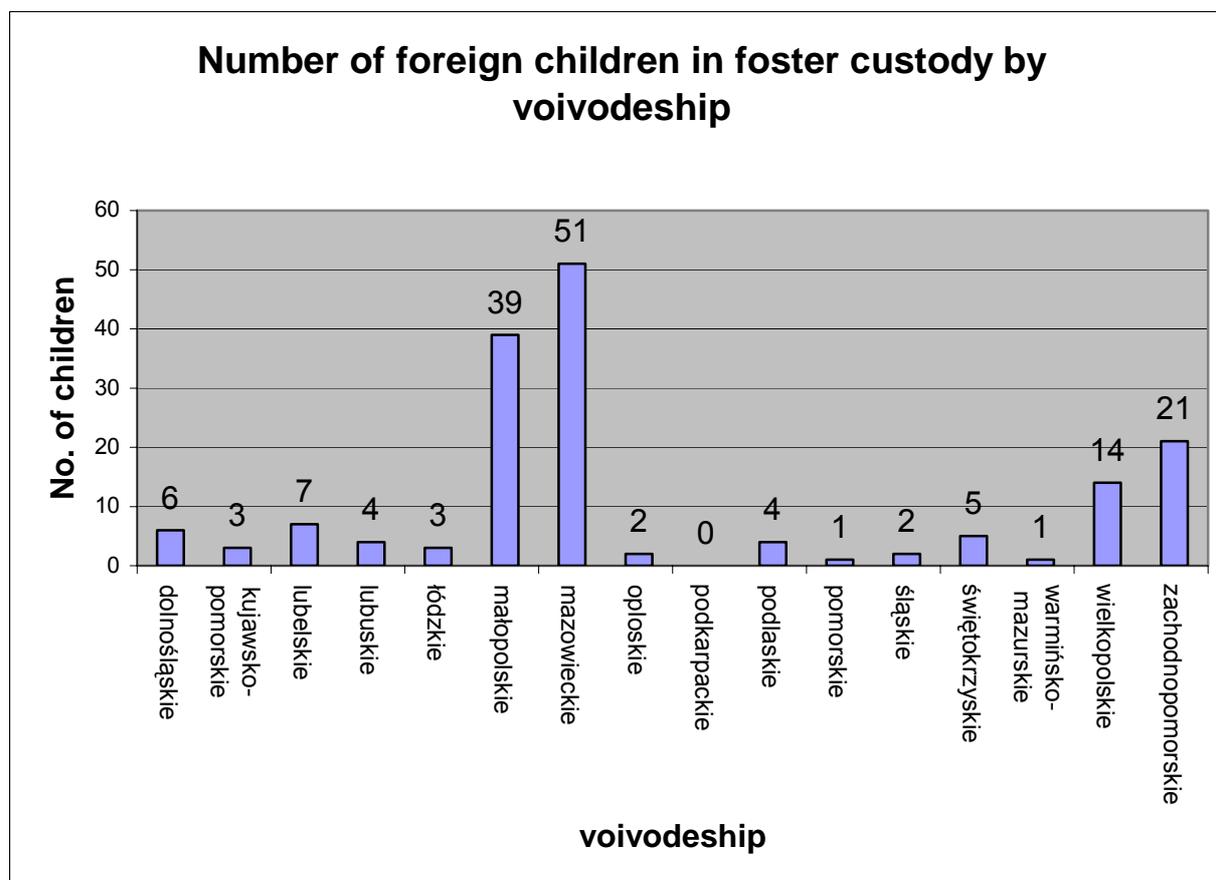
A database of foreign children in foster custody is maintained by voivodeship offices that finance their stay. The data presented below was collected by the Ministry of Labour and Social Policy. It covers the period from 1 January to 31 December 2008. The total of 163 foreign children were placed in foster custody within that period of time.

Number of children by the type of foster custody is presented in table 1.

Type of custody	Number of children
Foster family	57
Intervention centre	55
Socialization centre	42
Family facility	9
Total	163

/table 1/

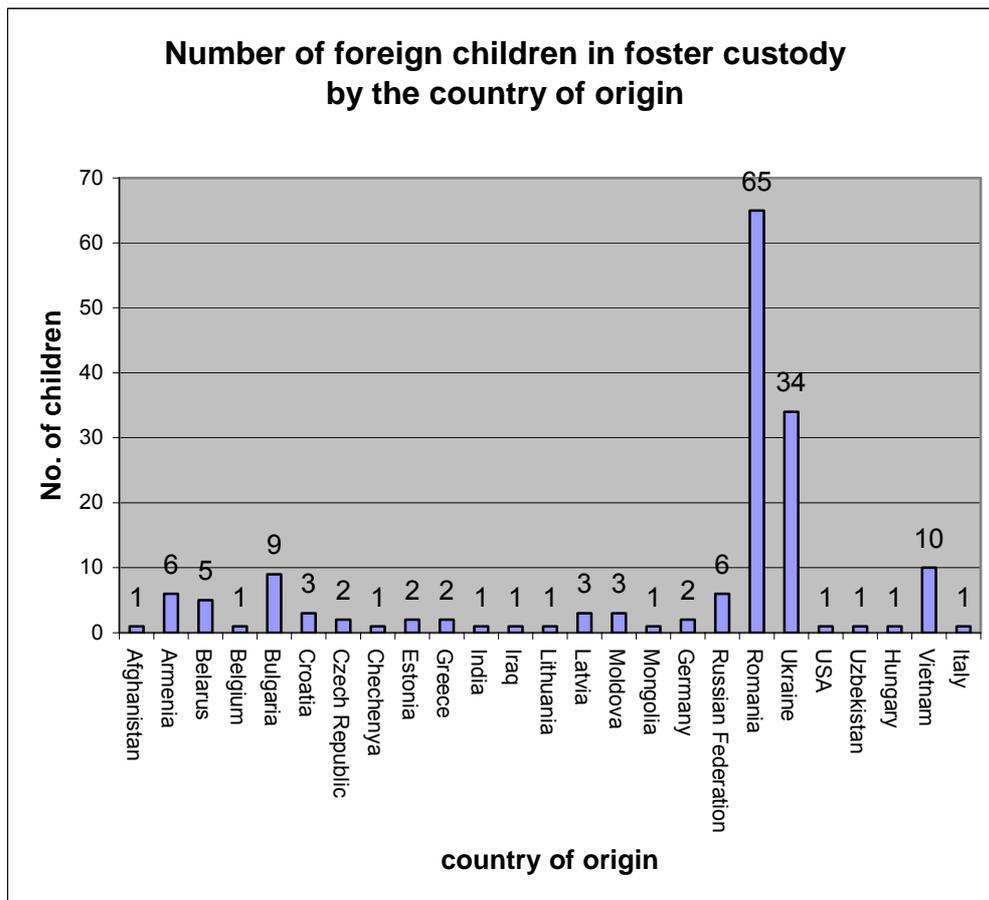
The greatest number of children was placed in foster custody in the Mazowieckie voivodeship (51). Not a single child was placed in foster custody in the Podkarpackie voivodeship. The number of children by voivodeship is presented in graph 1.



/graph 1/

The children placed in foster custody came from 25 countries. Most of them came from Romania (65).

The number of children by the country of origin is presented in graph 2.



/graph 2/

The number of children by their legal status is presented in table 2.

status	Number of children
refugee status	9
permit for tolerated stay	9
children with regard to whom the refugee status procedure is underway	1
citizens of EU or EEA member states	34
children with an irregular legal status	58
permit to settle	1
holders of long-term resident's EU residence permit	1
holders of a residence permit for a fixed period	15
no data available	35
Total	163

/table 2/

The number of children by the duration of their stay in foster custody is presented in table 3.

Duration of foster custody	Number of children
1 day	5
2 days	13
3-5 days	13
6-10 days	5
11-30 days	1
1 month	3
2-6 months	34
7-12 months	13
1-2 years	24
2-5 years	14
Over 5 years	38
Total	163

/table 3/

The number of children by age is presented in table 4.

Age of children	Number of children
0-1	11
1	4
2	6
3	10
4	5
5	11
6	8
7	8
8	9
9	6
10	14
11	9
12	11
13	10
14	8
15	9
16	10
17	10
18	4
Total	163

/table 4/

The number of children by sex is presented in table 5.

sex	Number of children
F	70
M	93
Total	163

/table 5/

Annex 2 – Data of the Office for Foreigners

Tables 1. Unaccompanied minors claiming international protection by age, sex and citizenship

Year: 2002	Category: Asylum applications														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Afghanistan	121	7	:	:	1	2	1	3	114	:	9	4	22	44	35
Armenia	2	0	:	:	:	:	:	2	:	:	:	:	:	2	
Azerbaijan	1	1	:	1	:	:	:	0	:	:	:	:	:	:	
Belarus	1	0	:	:	:	:	:	1	:	:	:	:	:	1	
China (including Hong Kong)	4	1	:	:	:	1	:	3	:	:	:	1	1	1	
Congo, the Republic of the	1	1	:	1	:	:	:	0	:	:	:	:	:	:	
Cuba	1	0	:	:	:	:	:	1	:	:	1	:	:	:	
India	11	0	:	:	:	:	:	11	:	:	:	1	2	8	
Iraq	5	0	:	:	:	:	:	5	:	:	:	:	3	2	
Iran (Islamic Republic of)	2	0	:	:	:	:	:	2	:	:	:	1	:	1	
Liberia	3	0	:	:	:	:	:	3	:	3	:	:	:	:	
Moldova, Republic of	1	1	:	1	:	:	:	0	:	:	:	:	:	:	
Mongolia	2	1	:	:	:	:	1	1	:	:	:	:	1	:	
Pakistan	4	0	:	:	:	:	:	4	:	:	:	1	:	3	
Russian Federation	34	7	:	4	:	1	2	27	:	8	:	4	6	9	
Sierra Leone	2	0	:	:	:	:	:	2	:	:	:	:	1	1	
Somalia	2	2	:	1	:	:	1	0	:	:	:	:	:	:	
Sri Lanka	3	0	:	:	:	:	:	3	:	1	:	:	2	:	
Ukraine	1	1	:	1	:	:	:	0	:	:	:	:	:	:	
TOTAL	201	22	:	9	1	4	2	6	179	:	21	5	30	60	63

Year: 2003	Category: Asylum applications														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Afghanistan	54	5	:	4	:	:	1	:	49	:	:	2	17	12	18
China (including Hong Kong)	2	0	:	:	:	:	:	2	:	:	:	:	1	1	
Congo, the Democratic Republic of the	1	0	:	:	:	:	:	1	:	1	:	:	:	:	
Ethiopia	1	1	:	1	:	:	:	0	:	:	:	:	:	:	
Georgia	1	1	:	1	:	:	:	0	:	:	:	:	:	:	
India	11	0	:	:	:	:	:	11	:	1	:	2	6	2	
Iran (Islamic Republic of)	3	0	:	:	:	:	:	3	:	:	:	:	1	2	
Iraq	5	0	:	:	:	:	:	5	:	:	:	1	1	3	

Mongolia	1	0	:	:	:	:	:	:	1	:	:	:	1	:	:
Nigeria	2	2	:	2	:	:	:	:	0	:	:	:	:	:	:
Pakistan	8	0	:	:	:	:	:	:	8	:	2	1	1	2	2
Russian Federation	120	52	:	43	:	2	2	5	68	:	39	1	4	12	12
Sri Lanka	2	0	:	:	:	:	:	:	2	:	:	:	:	2	:
Turkey	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Ukraine	1	1	:	:	:	:	1	:	0	:	:	:	:	:	:
West Bank and Gaza strip	1	1	:	:	:	:	:	1	0	:	:	:	:	:	:
TOTAL	214	64	:	52	0	2	4	5	150	:	43	4	26	37	40

Year: 2004	Category: Asylum applications														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Afghanistan	13	2	:	2	:	:	:	:	11	:	:	:	3	5	3
Bangladesh	2	0	:	:	:	:	:	:	2	:	:	:	:	2	:
Belarus	6	5	:	5	:	:	:	:	1	:	1	:	:	:	:
Ethiopia	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
India	21	0	:	:	:	:	:	:	21	:	1	2	4	7	7
Kazakhstan	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Nigeria	2	2	:	:	:	:	:	2	0	:	:	:	:	:	:
Pakistan	13	0	:	:	:	:	:	:	13	:	:	3	1	4	5
Russian Federation	155	64	:	56	:	3	2	3	91	:	53	2	5	12	19
Senegal	5	1	:	1	:	:	:	:	4	:	:	:	:	1	3
Togo	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Turkey	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
Turkmenistan	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Ukraine	7	3	:	2	:	:	1	:	4	:	:	:	:	2	2
Viet Nam	1	0	:	:	:	:	:	:	1	:	:	:	1	:	:
TOTAL	230	78	:	67	0	3	3	5	152	:	57	7	14	34	40

Year: 2005	Category: Asylum applications														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Afghanistan	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Azerbaijan	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Bangladesh	1	0	:	:	:	:	:	:	1	:	:	:	1	:	:
Belarus	2	0	:	:	:	:	:	:	2	:	:	:	:	:	2
China (including Hong Kong)	3	0	:	:	:	:	:	:	3	:	:	:	:	1	2
Ethiopia	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Iraq	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
Kazakhstan	2	2	:	2	:	:	:	:	0	:	:	:	:	:	:
Liberia	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Pakistan	3	1	:	1	:	:	:	:	2	:	:	:	:	1	1

Russian Federation	255	112	:	100	:	1	4	7	143	:	101	4	4	17	17
Sri Lanka	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Turkey	1	0	:	:	:	:	:	:	1	:	:	1	:	:	:
Uganda	2	1	:	:	:	:	:	1	1	:	:	:	:	:	1
Ukraine	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Viet Nam	2	1	:	:	1	:	:	:	1	:	:	:	:	:	1
TOTAL	278	120	:	106	1	1	4	8	158	:	103	5	5	20	25

Year: 2006	Category: Asylum applications														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Armenia	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Burundi	2	1	:	:	:	:	1	:	1	:	:	:	1	:	:
Georgia	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
Iraq	2	0	:	:	:	:	:	:	2	:	:	:	:	:	2
Kyrgyzstan	2	1	:	1	:	:	:	:	1	:	1	:	:	:	:
Liberia	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Nepal	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Russian Federation	265	123	:	114	1	4	2	2	142	:	115	:	5	10	12
Senegal	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Somalia	2	0	:	:	:	:	:	:	2	:	:	:	:	:	2
Sudan	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Turkey	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Turkmenistan	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Ukraine	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
TOTAL	282	127	:	117	1	4	3	2	155	:	119	0	6	11	19

Year: 2007	Category: Asylum applications														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Armenia	4	0	:	:	:	:	:	:	4	:	3	:	:	1	:
Bangladesh	3	0	:	:	:	:	:	:	3	:	:	:	:	2	1
Burundi	2	1	:	:	:	:	1	:	1	:	:	:	:	1	:
Cameroon	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
China (including Hong Kong)	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Ethiopia	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
India	1	0	:	:	:	:	:	:	1	:	:	:	1	:	:
Iraq	2	1	:	1	:	:	:	:	1	:	1	:	:	:	:
Kyrgyzstan	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Nigeria	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Pakistan	2	0	:	:	:	:	:	:	2	:	:	:	:	:	2
Russian Federation	330	151	:	118	5	7	6	15	179	:	145	5	4	11	14
Senegal	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1

Serbia	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Somalia	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Sri Lanka	1	0	:	:	:	:	:	:	1	:	:	:	1	:	:
Stateless	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Uzbekistan	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
West Bank and Gaza strip	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
TOTAL	356	155	:	121	5	7	7	15	201	:	151	5	6	15	22

Year: 2008	Category: Asylum applications														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Afghanistan	2	1	:	1	:	:	:	:	1	:	1	:	:	:	:
Armenia	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Belarus	5	1	:	1	:	:	:	:	4	:	4	:	:	:	:
Burundi	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Ghana	1	0	:	:	:	:	:	:	1	:	:	:	1	:	:
Georgia	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
Iraq	2	0	:	:	:	:	:	:	2	:	1	:	:	:	1
Kyrgyzstan	0	0	:	:	:	:	:	:	0	:	:	:	:	:	:
Madagascar	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Morocco	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
Russian Federation	358	172	:	141	3	8	11	9	186	:	140	7	9	9	21
Rwanda	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Sudan	1	1	:	:	:	:	1	:	0	:	:	:	:	:	:
Viet Nam	3	0	:	:	:	:	:	:	3	:	:	1	:	2	:
TOTAL	376	176	:	144	3	8	12	9	200	:	146	8	10	11	23

Tables 2. Rejected applicants (unaccompanied minors) for international protection at first instance by age, sex and citizenship

Year: 2002	Category: Rejected applicants														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Afghanistan	70	5	:	:	1	:	3	1	65	:	5	3	7	27	23
Armenia	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Bangladesh	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
China (including Hong Kong)	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
India	8	0	:	:	:	:	:	:	8	:	:	:	1	3	4
Iraq	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
Moldova, Republic of	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Mongolia	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Russian Federation	8	0	:	:	:	:	:	:	8	:	1	:	:	3	4
Sri Lanka	4	0	:	:	:	:	:	:	4	:	:	:	:	2	2

Ukraine	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Viet Nam	1	1	:	:	:	:	:	1	0	:	:	:	:	:	:
West Bank and Gaza strip	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
TOTAL	99	8	:	2	1	0	3	1	91	:	6	3	8	36	37

Year: 2003	Category: Rejected applicants														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Afghanistan	82	3	:	1	:	:	1	1	79	:	2	2	16	29	30
China (including Hong Kong)	2	0	:	:	:	:	:	:	2	:	:	:	:	1	1
Congo, the Democratic Republic of the	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Ethiopia	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
India	16	0	:	:	:	:	:	:	16	:	1	:	1	7	7
Iran (Islamic Republic of)	2	0	:	:	:	:	:	:	2	:	:	:	:	1	1
Iraq	7	0	:	:	:	:	:	:	7	:	:	:	:	2	5
Nigeria	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Pakistan	5	0	:	:	:	:	:	:	5	:	:	1	:	4	:
Russian Federation	21	4	:	4	:	:	:	:	17	:	4	2	1	6	4
Sierra Leone	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Somalia	1	1	:	:	:	:	:	1	0	:	:	:	:	:	:
Sri Lanka	3	0	:	:	:	:	:	:	3	:	:	:	:	1	2
TOTAL	143	10	:	7	0	0	1	2	133	:	8	5	18	51	51

Year: 2004	Category: Rejected applicants														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Afghanistan	21	1	:	1	:	:	:	:	20	:	:	1	4	8	7
Bangladesh	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
Belarus	3	2	:	2	:	:	:	:	1	:	1	:	:	:	:
Georgia	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
India	21	0	:	:	:	:	:	:	21	:	1	2	1	8	9
Moldova, Republic of	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Pakistan	11	0	:	:	:	:	:	:	11	:	:	4	1	5	1
Russian Federation	20	8	:	6	:	1	1	:	12	:	6	:	:	1	5
Turkey	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Turkmenistan	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Ukraine	8	4	:	2	:	:	1	1	4	:	:	:	1	3	:
Viet Nam	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
West Bank and Gaza strip	1	1	:	:	:	:	:	1	0	:	:	:	:	:	:
TOTAL	91	17	:	10	0	1	1	0	74	:	8	7	6	23	23

Year: 2005	Category: Rejected applicants															
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)							
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16	17
Afghanistan	3	0	:	:	:	:	:	:	3	:	:	:	:	:	1	2
China (including Hong Kong)	1	0	:	:	:	:	:	:	1	:	:	:	:	:	:	1
Iraq	1	0	:	:	:	:	:	:	1	:	:	:	:	:	:	1
Kazakhstan	2	0	:	:	:	:	:	:	2	:	2	:	:	:	:	:
Pakistan	1	0	:	:	:	:	:	:	1	:	:	:	:	:	:	1
Russian Federation	56	25	:	20	1	:	3	1	31	:	15	1	1	3	11	
Ukraine	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:	
Viet Nam	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1	
TOTAL	66	25	:	20	1	0	3	1	41	:	17	1	1	4	16	

Year: 2006	Category: Rejected applicants														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Bangladesh	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
Burundi	2	1	:	:	:	:	1	:	1	:	:	:	1	:	:
Kyrgyzstan	2	1	:	1	:	:	:	:	1	:	1	:	:	:	:
Pakistan	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Russian Federation	24	11	:	10	:	:	1	:	13	:	12	:	:	:	1
TOTAL	30	13	:	11	0	0	2	0	17	:	13	0	1	1	2

Year: 2007	Category: Rejected applicants															
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)							
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16	17
China (including Hong Kong)	1	0	:	:	:	:	:	:	1	:	:	:	:	:	:	1
Iraq	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1	
Pakistan	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1	
Russian Federation	34	12	:	7	:	1	2	2	22	:	17	2	2	1	:	
Senegal	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1	
Serbia	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:	
Sudan	1	0	:	:	:	:	:	:	1	:	:	1	:	:	:	
Ukraine	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:	
West Bank and Gaza strip	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1	
TOTAL	42	13	:	7	0	1	2	2	29	:	17	2	2	1	3	

Year: 2008	Category: Rejected applicants														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Armenia	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Bangladesh	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
India	1	0	:	:	:	:	:	:	1	:	:	:	:	1	:
Russian Federation	27	12	:	9	:	1	2	:	15	:	12	1	:	1	1
Viet Nam	3	0	:	:	:	:	:	:	3	:	:	1	:	2	:
TOTAL	33	12	:	9	0	1	2	0	21	:	12	1	0	4	1

Tables 3. Persons granted refugee status (unaccompanied minors) at first instance by age, sex and citizenship

Year: 2002	Category: granted refugee status														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Afghanistan	2	0	:	:	:	:	:	:	2	:	1	:	:	:	1
Congo, the Republic of the	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Liberia	6	0	:	:	:	:	:	:	6	:	3	:	:	:	3
Russian Federation	17	3	:	3	:	:	:	:	14	:	7	:	:	:	7
Rwanda	1	1	:	:	:	:	:	1	0	:	:	:	:	:	:
Somalia	3	1	:	1	:	:	:	:	2	:	:	:	:	1	1
Sri Lanka	2	0	:	:	:	:	:	:	2	:	1	:	:	:	1
TOTAL	32	6	:	5	:	:	:	1	26	:	12	:	:	1	13

Year: 2003	Category: granted refugee status														
	Country of Nationality	Total	Female (Age in years)						Male (Age in years)						
			Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16
Afghanistan	2	2	:	2	:	:	:	:	0	:	:	:	:	:	:
China (including Hong Kong)	2	1	:	:	:	:	1	:	1	:	:	:	:	1	:
Cuba	1	0	:	:	:	:	:	:	1	:	:	:	1	:	:
Russian Federation	20	12	:	11	:	:	:	1	8	:	7	:	:	:	1
Somalia	1	1	:	:	:	:	:	1	0	:	:	:	:	:	:
TOTAL	26	16	:	13	0	0	1	2	10	:	7	0	1	1	1

Year: 2004	Category: granted refugee status													
	Female (Age in years)							Male (Age in years)						

Country of Nationality	Total		Unknown	Age in years					Total		Unknown	Age in years				
	Total	Unknown		0-13	14	15	16	17	Total	Unknown		0-13	14	15	16	17
Afghanistan	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:	
Belarus	4	4	:	4	:	:	:	:	0	:	:	:	:	:	:	
Ethiopia	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:	
Russian Federation	30	17	:	16	:	:	:	1	13	:	11	:	:	:	2	
TOTAL	36	23	:	22	:	:	:	1	13	:	11	:	:	:	2	

Year: 2005		Category: granted refugee status													
Country of Nationality	Total	Female (Age in years)							Male (Age in years)						
		Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16	17
Liberia	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Pakistan	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Russian Federation	15	1	:	1	:	:	:	:	14	:	12	:	:	1	1
Somalia	1	0	:	:	:	:	:	:	1	:	:	:	:	:	1
Sri Lanka	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
TOTAL	19	3	:	3	0	0	0	0	16	:	12	0	0	1	1

Year: 2006		Category: granted refugee status													
Country of Nationality	Total	Female (Age in years)							Male (Age in years)						
		Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16	17
Azerbaijan	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Ethiopia	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Russian Federation	48	26	:	25	:	:	:	1	22	:	20	:	:	:	2
TOTAL	50	28	:	27	0	0	0	1	22	:	20	0	0	0	2

Year: 2007		Category: granted refugee status													
Country of Nationality	Total	Female (Age in years)							Male (Age in years)						
		Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16	17
Armenia	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Cameroon	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
Russian Federation	31	14	:	14	:	:	:	:	17	:	16	:	:	:	1
TOTAL	33	15	:	15	0	0	0	0	18	:	17	0	0	0	1

Year: 2008		Category: granted refugee status													
Country of Nationality	Total	Female (Age in years)							Male (Age in years)						
		Total	Unknown	0-13	14	15	16	17	Total	Unknown	0-13	14	15	16	17

Country of Nationality	Total	Total	Unknown	0 – 13	14	15	16	17	Total	Unknown	0 – 13	14	15	16	17
Afghanistan	1	0	:	1	:	:	:	:	1	:	1	:	:	:	:
Armenia	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Ethiopia	1	0	:	:	:	:	:	:	1	:	1	:	:	:	:
Russian Federation	26	14	:	12	:	1	1	:	12	:	12	:	:	:	:
Rwanda	1	1	:	1	:	:	:	:	0	:	:	:	:	:	:
TOTAL	30	15	:	14	0	1	1	0	15	:	15	0	0	0	0

Annex 3 – Bibliography:

Reports and articles:

1. IOM Report “Exchange of information and best practices concerning the reception, protection and treatment of unaccompanied minors” 2009
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Polish legal acts

1. Act of 13 June 2003 on Foreigners (consolidated text Journal of Laws of 2006, No. 234, item 1694 with amendments);
2. Act of 13 June 2003 on granting protection to aliens within the territory of the Republic of Poland (consolidated text Journal of Laws of 2006 r. No. 234, item 1695 with amendments);
3. Act of 14 July 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union Member States and their family members (Journal of Laws of 2006, No. 144, item 1043 with amendments);
4. Act of 12 March 2004 on social assistance (Journal of Laws of 2008, No. 115, item 728 with amendments);
5. Family and Custody Code dated 25 February 1964 (Journal of Laws of 1964, No. 9 item 59 with amendments);
6. International Private Law dated 12 November 1965 (Journal of Laws of 1965, No. 46, item 290 with amendments);
7. Act of 7 September 1991 on the Educational System (Journal of Laws of 2004, No. 256, item 2572 with amendments);
8. Act of 15 February 1962 on Polish Citizenship (Journal of Laws of 2000, No. 28, item 353 with amendments);
9. Act of 27 August 2004 on Healthcare Services Financed with Public Resources (consolidated text Journal of Laws of 2008 r. No. 164, item 1027);
10. Act of 30 August 1991 on Healthcare Facilities (consolidated text Journal of Laws of 2007 r. No. 14, item 89);
11. Act of 13 July 2006 on Passport Documents (Journal of Laws of 2006, No. 143, item 1027);
12. Ordinance by the Minister of Labour and Social Policy on providing assistance to foreigners who have been granted the status of a refugee in the Republic of Poland or who have received subsidiary protection, dated 9 March 2009 (Journal of Laws of 2009, No. 45, item 366);
13. Ordinance by the Minister of Labour and Social Policy on educational-care centres dated 19 October 2007 (Journal of Laws of 2007, No. 201, item 1455),
14. Ordinance by the Minister of Labour and Social Policy on foster families dated 18 October 2004 (Journal of Laws of 2004, No. 233, item 2344 with amendments).