



Annual Policy Report: 2012

Report produced by
the National Contact Point
to the European Migration Network in Poland

March 2013

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Summary



Year 2012 was full of events that had significant influence on foreigners coming to Poland and on a situation of migrants on the Poland's territory. Among them should be mentioned a strategic document adopted by the Council of Ministers on 31 July 2012, determining basic assumptions of the Polish migration policy oriented to the promotion of legal migration to Poland (*"Migration Policy of Poland – the Current State of Play and the Further Actions"*), an Act authorising an irregular stay of a foreign national in our country that has come into force (in result of the regularisation, during the first six months, 4 415 foreign nationals legalised their stay in Poland, mainly from Ukraine or Vietnam, and 9 555 foreigners filed applications for a residence permit for a period determined under this procedure), which has markedly contributed to the increase of a number of residence cards issued to foreign nationals, or hosting the UEFA EURO 2012, European Football Championship by Poland and Ukraine. The last activity was accompanied by a number of elements promoting positive image of the country and society that is open and friendly towards foreign nationals, however, it developed the need to intensify control at the country borders (both, external and internal border sections, following a regulation that has temporarily restored the border check of individuals crossing the Poland's border being the EU internal border).

Statistical data as at 31 December 2012 indicate that foreign nationals in Poland held some **111 971 residence cards**, out of which 47 908 cards were connected with the permit to settle, 54 503 with the residence permit for a fixed period, 5 722 with the long-term residence status granted to nationals of the European Communities, 2 369 with subsidiary protection, 849 with the status for refugees and 620 with the tolerated status. Comparing to 2011, the total number of the valid residence cards has increased (2011 – 100 298 cards, increase by 10%). Nationals from Ukraine, Russia, Vietnam, Belarus, and China, respectively, held the largest number of residence cards. A significant increase of residence cards issued in 2012 in connection with the limited residence permits (by approx. 24% comparing to 2011) was caused by the regularisation of irregular stay of foreigners in Poland on one hand, and on the other, with the increasing number of foreigners that wanted to take up employment in Poland. The analysis of statistical data concerning labour immigration to Poland for the last years shows growing popularity of performing work based on an employer's declaration registered in Poviats Labour Offices of the intention to entrust a job to a foreign national from Belarus, Ukraine, Russia, Moldavia, and Georgia. This form of employment indicates strong preference demonstrated by third-country nationals in relation to the employment of foreigners under general terms and con-

ditions (i.e. based on work permits issued by the voivode).

Referring to statistical data, it should be noted that the number of individuals applying for granting one of the forms of international protection in Poland in 2012 was record high in the history as the **number of applications for the refugee status** came to a total of **10 753** (almost 4 thousand more than in 2011), out of which 85% accounted for applications lodged for the first time (last year 74%). Works on the analysis of activities in a situation of mass influx of foreigners to Poland carried out in 2012 resulted in the study entitled “*A Concept of Activities Regarding the Mass Influx of Foreigners to the Republic of Poland*”. Arrangement works will continue throughout 2013.

In 2012, regulations were introduced that justify the provision of assistance to and inclusion in the pre-integration process of foreigners transferred to Poland under relocation

The year 2012 recorded the legislation works on the implementation of *Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals* and *Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment*. The above EU legislation has been transposed to Polish law based on the *Act of 27 April 2012 amending the Act on foreigners and the Act on promotion of employment and*

on labour market institutions (Journal of Laws of 2012, item 589) that came into effect on 12 June 2012.

In course of the year, intensive legislation works on a bill on foreigners were carried out. The above bill was developed based on the assumptions adopted by the Council of Ministers on 16 August 2011. Under the ongoing legislation process, the bill was subject to inter-departmental agreements and wide social consultations. The Parliament is expected to adopt the planned Act in 2013 and it will come into force in 2014.

Act of 28 July 2011 on legalisation of stay of some foreigners on the territory of the Republic of Poland and amendments to the Act on granting foreigners protection on the territory of the Republic of Poland and the Act on foreigners (Journal of Laws No. 191, item 1133) came into force on 1 January 2012. The text referred to enabled to legalise the temporary stay of a specific group of foreigners on the territory of Poland, whose stay in Poland as at 1 January 2012 was considered irregular, i.e. without a document confirming their residence permit (regularisation/abolition). The so-called *Abolition Act regarding the amendment of the Act on the provision of international protection to foreigners on the territory of the Republic of Poland* aimed at introducing legal solutions that eventually could justify the provision of assistance to and inclusion in the pre-integration process of foreigners transferred to Poland under relocation or resettlement. *The Act of 28 July 2011* has introduced to the Polish legal order:

- extension of assistance granted to foreigners applying for the status of refugees – in the light of the present practice, the need of introducing regulations that will improve the level of assistance granted to foreigners and increase the availability of benefits has developed;

- regulations concerning the proceedings on granting the refugee status have been clarified in order to improve the process:
 - » matters relating to the issuance of a decision on a transfer and dismissal of a case if circumstances justify the transfer of a foreigner based on the *Council Regulation (EC) No. 343/2003* have been clarified;
 - » introducing a regulation imposing a duty on an applicant to appear within 2 days in the guarded centre operated by the Head of the Office for Foreigners as of the date of lodging an application for granting a refugee status (failing to comply with the above duty created serious problems in implementing the procedure – problems with communication, examination, prolonging the procedure, and disorganization of the system of providing social benefits and medical care);
 - » additional reason for dismissing the case has been introduced if a foreigner fails to appear in the foreigner accommodation centre within 2 days as of the date of lodging an application for granting a refugee status;
 - » introducing a principle, under which a certificate enabling to take up a job on the territory of the Republic of Poland issued to a foreigner will be valid although a decision on granting the refugee status has not been issued within 6 months as of lodging an application. Such certificate will be valid until the day when a decision on granting the refugee status becomes final;
- organisational changes relating to granting the Polish Border Guard exclusive authority to detain a foreigner in a guarded centre or under arrest in order to expel him or to apply for extending his stay in such centre or under arrest (previously

such authority was also granted to Police). Such change will allow to indicate without any doubts a body competent to apply to a court for placing a foreigner in a guarded centre (or keeping him under arrest in order to expel) and specifically to apply for the extension of a foreigner's stay in detention facilities administered by the Polish Border Guard.

Additionally, in 2012, works aimed at the implementation of the provisions of the *Directive of the European Parliament and the Council 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)* in the Polish legal order. The provisions of the Directive are to be transposed to national legal orders by the end of 2013.

Compared to previous years, in 2012 individual actors of the civic society¹ became more active and started to influence various issues related to the country's migration policy to a greater extent (e.g. as concerns debate on the situation of unaccompanied minors located in the guarder centers for foreigners or the debate regarding integration-related problems of foreigners in Poland, including in particular the basis of functioning of the system of legal aid for refugees).

The above subjects will undoubtedly be continued in 2013, also due to the schedule of adopting by the Sejm of the Republic of Poland the new act on foreigners as well as the process of preparation of the implementation plan to the "*Migration Policy of Poland - Current State of Play and Further Actions*".

1. E.g. the Institute of Public Affairs, 'Ocalenie' Foundation, Helsinki Foundation for Human Rights, Rule of Law Institute.

1 Introduction to the Report



This report provides an overview of the most important policy debates, and the changes made in Poland in the field of migration and asylum in 2012. It was prepared by the Polish National Contact Point of the European Migration Network (PL EMN NC) which, in accordance with Art. 9 paragraph 1 Council Decision 2008/381/EC is required for the annual preparation of this document.

The report covers the period from 1 January to 31 December 2012 and is the fifth edition of this type of studies issued by the National Contact Point in Poland.

As with previous reports in this series, to Polish Policy Report for the year 2012, is, as suggested by the European Commission, the transfer of data and at the same time enriching the report synthesizing the knowledge of the national reports of 27 national contact points of the Member States of the EU, Norway and Croatia on policy on migration and asylum. Policy Reports produced by national contact points of the European Migration Network are monitoring the implementation of the various provisions set out in the adopted by the European Council of 15-16 October 2008, the *European Pact on Immigration and Asylum*² and the five-year *Stockholm*

Programme - An open and secure Europe serving and protecting citizens³ (document This was adopted by the European Council on 10-11 December 2009). In particular, the presented material refers to the material, from the point of view of the global approach

developed and transposed into concrete measures, specifically:

- to organise legal immigration to take account of the priorities, needs and reception capacities determined by each Member State, and to encourage integration;
- to control illegal immigration by ensuring that illegal immigrants return to their countries of origin or to a country of transit;
- to make border controls more effective;
- to construct a Europe of asylum;
- to create a comprehensive partnership with the countries of origin and of transit in order to encourage the synergy between migration and development.

3. *The Stockholm Programme – An open and secure Europe serving and protecting the citizens* defines the priorities of the European Union in the area of migration and asylum, as well as other Justice and Home Affairs issues for the five-year period 2009 - 2014. The programme follows the *Tampere* and the *Hague Programmes* that preceded it. *The Stockholm Programme* focuses on priorities such as the sustainability of return programmes, as well as the development of legal migration and integration and the protection of unaccompanied minors entering the EU. This programme, in addition to the *European Pact on Immigration and Asylum*, is considered to be a guiding tool in the future development of asylum and migration policy within the EU. The purpose of the *Action Plan Implementing the Stockholm Programme* is to deliver the priorities and objectives outlined in the *Stockholm Programme*, both at European and global level, ensuring that citizens benefit from progress made in the area of freedom, security and justice. *The Action Plan* sets out the EU's action in the next five years, with specific sections (and groups of actions) on the management of the external borders, visa policy, migration policies, asylum policy and the external dimension of migration and asylum.

2. *The European Pact on Immigration and Asylum* is a further steppingstone towards a comprehensive EU migration policy. The European Council makes five basic commitments, which will continue to be



to migration and asylum, the following documents:

- *Global Approach to Migration and Mobility*,⁴
- *EU Action on Migratory Pressures – A Strategic Response*,⁵
- *EU Strategy towards the Eradication of Trafficking in Human Beings (2012-2016)*,⁶
- *European Agenda for the Integration of Third-Country Nationals*.⁷

National Contact Points of the European Migration Network have become one of the parties responsible for monitoring the status of implementation of the provisions of the abovementioned documents.

Prepared by the individual national contact point of the European Migration Network Policy Report for the year 2011 and has previously indicated report synthesizing the knowledge of the national reports are a contribution to the annual summary report (indicating similarities and differences carried out by each of the Member States of the EU policy in the field of migration and asylum),⁸ which will be prepared by the European Commission and presented to the European Council discussions in late May and June 2013.

This broad in its scope the report should allow politicians, scientists and the wider public to better understand and analyze the events

of a migration that took place in 2012 in the EU Member States. Should also contribute to a more complete picture of the situation, and thus allow for more accurate policy decisions in the design of new solutions both in the national as well as EU migration and asylum policy.

1.1. General structure of asylum and migration policy and institutional context

Sejm and Senat (chambers of the Parliament) are the constitutional authorities vested in a legislative branch. There are bodies with primary responsibility for adoption of laws relating to migration.

The President of the Republic of Poland grants the Polish citizenship and agrees to the renouncement thereof.

As for the executive power, the migration policies are implemented both at the central as well as regional level and belong to the competences of the **Council of Minister, appropriate Ministries** (Ministers promulgate inter alia the executive acts regarding migration issues), specialized offices, services and local self-government. The distribution of competence is multilevel and constitutes the basis for the coherent national migration system.

The key actors with regard to migration and asylum in Poland are:

- **Minister of the Interior**⁹ (www.msw.gov.pl)
 - leading authority in the field of migration, competent inter alia with respect to:
 - » coordination of the activities related to state migration policy,

4. http://ec.europa.eu/home-affairs/news/intro/docs/1_EN_ACT_part1_v11.pdf.

5. Document 8714/1/12 REV 1 is available on the web site: <http://eur-lex.europa.eu/Notice.do?mode=dbl&lang=en&ihtmlang=en&lng1=en,pl&lng2=bg,cs,da,de,el,en,es,et,fi,fr,hu,it,lt,lv,mt,nl,pt,ro,sk,sl,sv,&val=679351:cs; http://register.consilium.europa.eu/pdf/en/12/st08/st08714-re01.en12.pdf>.

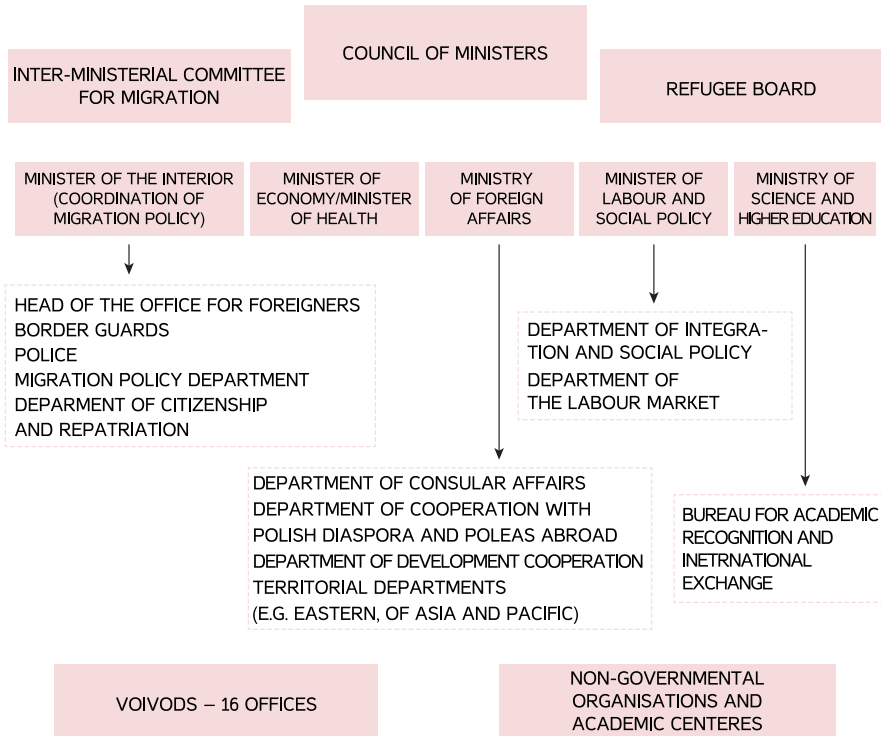
6. See: <http://ec.europa.eu/anti-trafficking/>

7. Document COM(2011)455 final is available on the web site: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0455:FIN:PL:PDF>.

8. The country reports and a report synthesizing the knowledge of the national reports of the European Migration Network will also serve to prepare the European Asylum Support Office (EASO) analysis of the situation of asylum in Europe in 2012. It will be prepared and presented to the EU Council in June 2013.

9. The Ministry of the Interior was created on 18 November 2011 with the basis of the Ministry of the Interior and Administration. The above issues are regulated by the *Regulation of the Council of Ministers of 21 November 2011 on establishing the Ministry of the Interior* (Dz. U. [Journal of Laws] of 21 November 2011, No. 250, item 1502). Due to this regulation the body competent for coordination of Poland's migration policy is the Minister of Interior.

Diagram 1. Key actors working in the field of migration



Source: Migration Policy Department of the Ministry of the Interior

- » citizenship and repatriation,
- » protection of state borders,
- » border control and control of legality of entrance and stay of foreigners on the territory of Poland.
- » international and national protection (first instance),
- » legalization of stay, expulsions (appeal instance),
- » organization and management of reception centres for asylum seekers,
- » visa consultations,
- » management of the comprehensive teleinformatic system constituting collection of registers and records relating to foreign nationals.

Moreover, the Ministry of the Interior is responsible for carrying out the policy to combat trafficking in human beings.¹⁰

The Minister of Interior supervises the activities of the following state agencies:

- **Head of the Office for Foreigners** (www.udsc.gov.pl) – the authority carrying out the executive tasks relating to, inter alia:

Office for Foreigners has currently eleven (11) centers for foreigners applying for refugee status on Polish territory. Of the eleven centers, four centers (Biała Podlaska, Podkowa Leśna – Dębak, Linin and Czerwony Bór) remain to be managed by the Office for Foreigners, while

10. More information is available on the web site http://www.msw.gov.pl/portal/pl/650/8651/Wsparcie_dla_ofiar_handlu_ludzmi.html.

seven other facilities are rented based on the implementation of public procurement published by the Office. In 2012, the Office leased¹¹ guarded centres for foreigners located in Grotniki, Grupa near Grudziądz, Białytok, Lublin, Łukowo, Kolonia Horbów in Zalesie and in Warsaw, and in the middle of the year, the Office closed the centre for individuals applying for the refugee status located in Moszna.¹² An additional place that has been opened in Warsaw is an important foreigner's service point.

In the indicated period, the number of foreign nationals applying for international protection covered by the benefits of the Office for Foreigners came to 2 786 individuals and was slightly higher than the one recorded in 2011. The reception centres in 2012 accommodated 1 268 foreigners as at the end of the year and 1 432 individuals¹³ enjoyed the benefits to cover the costs of their stay on the territory of the Republic of Poland arranged on their own. Additionally, in 2012, the Children's Home accommodated twelve unaccompanied foreign minors.

- **Border Guard** (www.strazgraniczna.pl) is responsible for:
 - » border control and authorization to enter (issuing appropriate decisions i.e.: to refuse entry to the territory of Poland),
 - » receiving applications for refugee status,

- » enforcing decisions on expulsion,
- » issuing decisions on obligation to leave the territory of Poland,
- » conducting controls of the legality of foreigners' stay and employment.

In the organizational structure of the Border Guard operates currently six guarded centers for foreigners, located in:

- Przemyśl - within the organizational structure of the Bieszczadzki Border Guard Unit,
- Kętrzyn - within the organizational structure of Warmia and Mazury Border Guard Unit,
- Biata podlaska - within the organizational structure of the Nadbużański Border Guard Unit,
- Białystok - within the organizational structure of the Podlaski Border Guard Unit,
- Krosno Odrzańskie - within the organizational structure of the Nadodrzański Border Guard Unit,
- Lesznówola - within the organizational structure of Nadwiślański Border Guard Unit (adopted from the Police in 2008).

The Polish Border Guard has also two detention centres for deportation located in:

- » Przemyśl – a part of an organizational structure of The Border Guard Regional Division in Bieszczady, and
- » Białystok – a part of an organizational structure of The Border Guard Regional Division in Podlasie.

11. The list of reception centres of the Office for Foreigners is available on the website http://www.udsc.gov.pl/Lista_osrodkow_dla_uchodzcow_464.html.

12. As of 30 June 2012, the centre for foreigners applying for the refugee status was closed as the entity running the centre in Moszna did not express the intention to continue the concluded agreement.

13. The above data differ depending on the reporting period (week) of the Office for Foreigners. From 9-15 November 2012, 1 588 foreigners were staying in detention centres and 1 511 persons outside the centres. From 1 to 3 January 2013, these figures amounted to 1 387 and 1 317, respectively.

Map 1. Location of the Border Guard's regional units in Poland



Source: Border Guard Headquarters

Pursuant to *Regulation No. 72 of the Minister of the Interior of 28 November 2012*, in order to designate space to make an arrest with the purpose of deportation, four jails for deportation were liquidated - in Kętrzyn (Warmian-Masurian Border Guard Regional Division), Biała Podlaska (The Border Guard Regional Division on the Bug River), Kłodz (Sudecki Border Guards Division) and in Warsaw (the Border Guard Regional Division).

- **Police** (www.policja.pl) is:
 - » conducting controls of the legality of foreigners' stay,
 - » participating in the expulsion procedure,
 - » issuing decisions on the obligation to leave the territory of Poland.
- **Minister of Labour and Social Policy** (www.mpips.gov.pl) is in charge of:
 - » preparation of legal framework governing the employment of foreigners and their access to the Polish labour market (work permits – appeal instance),
 - » integration policy and social assistance to foreigners.
- **Ministry of Foreign Affairs** (www.ms.gov.pl) performs tasks related to:
 - » issuing visas and carrying out visa policy,
 - » Polish diaspora,
 - » relations with third countries, supervision of the consular and diplomatic posts,

- » development assistance.
- **National Labour Inspectorate** (www.pip.gov.pl) is an authority which conducts controls in the field of:
 - » the legality of foreigners' employment and performing work by foreigners,
 - » management principles of the employment agencies for foreigners (including those for temporary employment),
- **Ministry of Economy** defines the business environment to foreigners willing to carry out business activity.
- **Ministry of Health** defines the conditions of access of foreigners to health.
- **Ministry of Science and Higher Education:**
 - » determines the policy and terms and conditions for the undertaking education and studying within higher education,
 - » recognizes foreign credentials for both academic and professional purposes.
- **Refugee Board** (www.rada-ds-uchodzcow.gov.pl):
 - » is the appeal instance body with regard to proceedings to grant refugee status,
 - » makes analysis of the jurisdiction of law matters relating to granting or withdrawing refugee status.
- **Voivods**¹⁴ are inter alia responsible for:
 - » granting residence permits and issuing work permits (lower instance),
 - » recognition of a foreigner as a Polish citizen,
 - » issuing decisions on expulsion,
 - » supervising social assistance centers.
- **Inter-ministerial Committee for Migration**¹⁵ is chaired by the Minister of the Interior and Administration and constitutes an advisory body to the Prime Minister. Its tasks include inter alia:
 - » initiating developments in migration-related issues and recommending them to the Council of Ministers,
 - » passing opinions on multiannual and annual national programmes implementing the European Fund for the Integration of Third Countries Nationals,
 - » exchanging information and monitoring works in the area of migration conducted in the EU,
 - » cooperating with state and self-government administration as well as non-governmental organisations.

The main legal acts regulating migration and asylum matters in Poland are:

- *Polish Constitution of 2 April 1997*,¹⁶

15. The Committee is composed of the Secretaries or Undersecretaries of State representing the Ministry of Labour and Social Policy, Ministry of Foreign Affairs, Ministry of Administration and Digitization, Ministry of Economy, Ministry of Finance, Ministry of Science and Higher Education, Ministry of Culture and National Heritage, Ministry of National Education, Ministry of Regional Development, Ministry of Health as well as the President of the Central Statistical Office, Head of the Office for Foreigners, Chief of the Internal Security Agency, Chief Commanders of: the Police and Border Guards as well as the representatives of the Chancellery of the Prime Minister on the level of Secretary of Undersecretary of State.

16. Official Journal of Laws 1997, No. 78, item 483, with

14. Governors of voivodeships (local governmental representatives).

- *Act of 13 June 2003 on foreigners*¹⁷ and other acts relating to specific sectors (entry, admission, residence, return and registers of foreigners);
- *Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland*¹⁸ (granting international and national forms of protection);
- *Act of 14 July 2006 on the terms and conditions of the entry into and the stay in the territory of the Republic of Poland of the citizens of the EU Member States and the members of their families*;¹⁹
- *Act of 9 November 2000 on repatriation*;²⁰
- *Act of 7 September 2007 on Card of the Pole*;²¹
- *Act of 15 February 1962 on citizenship*;²²
- *Act of 20 April 2004 on promotion of employment and labour market institutions*;²³

and other acts relating to specific sectors (social assistance, education, visas, etc.).

In general, the entry (border crossing) phase of migration to Poland is controlled by the Border Guards, both in asylum and migration contexts. In order to be admitted to Polish territory, third-country nationals need to hold valid visa issued, as a general principle, by Polish consuls abroad. Asylum applications are examined by the Head of the Office for Foreigners – as the lower instance authority and the Refugee Board as the appeal one. Applications for legal residence in Poland, as well as conditions for issuing a work permit (when necessary) to a foreigner, are examined by the voivods. As for returns, several institutions may be involved, depending on the type of return (voluntary – Border Guards, Head of the Office for Foreigners, IOM Warsaw Office; forced – Border Guards, Police; expulsion decisions – voivod and the Head of the Office for Foreigners).

For more detailed information concerning a structure of the Polish political system and institutional context relevant for migration and asylum please review the “*Organisation of Asylum and Migration Policies*” report.²⁴

later amendments.

17. Official Journal of Laws 2011, No. 264, item 1573, with later amendments.
18. Official Journal of Laws 2012, item. 680.
19. Official Journal of Laws 2006, No. 144, item. 1043, with later amendments
20. Official Journal of Laws 2004, No. 53, item 532, with later amendments.
21. Official Journal of Laws 2007, No. 180, item 1280, with later amendment.
22. Official Journal of Laws 2012, item 161. On 15 August 2012 a new *Act of 14 April 2009 on Polish citizenship* entered into force. In 2009 the current Polish President appealed to the Constitutional Court, as a law incompatible with Polish Constitution. Judgment of Constitutional Court from the 18 January 2012 (Polish Monitor of 2012 No. 39) considered that rules laid down in the act concerning to recognition as a Polish citizen, are corresponding with the Constitution. Based on the above-mentioned rules of Act, starting from 15 May 2012, foreigners can apply for the restoration of Polish citizenship, which has been lost in the past. Restoration of Polish citizenship is a completely new category in Polish law. An analysis of the rules on the acquisition of Polish citizenship is posted on the website of the EMN National Contact Point in Poland http://www.emn.gov.pl/porta/esm/704/10185/Analiza_zmian_dotyczacych_zasad_nabywania_obywatelstwa_polskiego.html.
23. Official Journal of Laws 2008, No. 69, item 415, with later amendments.

24. See: www.europa.eu/emn.

2 Overview of Asylum and Migration Policy Developments



2.1. Political developments in Poland

Among events significant for the development of a political and migration policy in Poland and for the quality of a related debate, an adoption of a strategic document entitled “*Migration Policy of Poland – the Current State of Play and the Further Actions*” during a meeting of the Council of Ministers held on 31 July 2012 should be mentioned and the continuation of debates at various levels in connection with introducing important changes to the current migration system in Poland, also of a structural nature.

The above-mentioned “*Migration Policy of Poland – the Current State of Play and the Further Actions*” document was prepared by an Interdepartmental Migration Group, that is, an advisory body to the Chairman of Council of Minister as an outcome of specially appointed interdepartmental working group and adopted at the 12th meeting of the Group on 20 July 2011. The document was adopted at the Council of Ministers’ meeting held on 31 July 2012. The essence of the discussed document can be evidenced by the fact that the Minister of the Interior in his exposé delivered on 19 October 2012, among the priorities recognised by the ministry in 2012 and 2013, presented new migration Poland’s policy to be followed

according to the principles adopted in the strategic document. In his communication, the Minister underlined that all EU Member States are responsible for developing modern and well-coordinated migration policy, which is also an objective of the Poland’s migration policy.²⁵ A matter of managing the country’s migration policy was also a subject of another 23rd meeting of the Inter-ministerial Committee for Migration held on 28 September 2012. The course of works on a document implementing the document entitled “*Migration Policy of Poland – the Current State of Play and the Further Actions*” was agreed at the meeting, at which also a decision about the need to add an implementation document to the strategic document entitled “*Migration Policy of Poland – the Current State of Play and the Further Actions*” was made. The implementation document comprises an action plan that should include the elements listed below:

- list of adopted recommendations,
- list of entities responsible for the fulfilment of stated recommendations,
- identification whether the fulfilment of recommendations requires legislation changes and to what extent,

25. More info on the website of the EMN National Contact Point in Poland http://www.emn.gov.pl/portal/esm/704/9819/Migracje_w_expos_Ministra_Spraw_Wewnetrznych.html

- identification whether the fulfilment of recommendations requires organisational changes and if so, what changes,
- identification of assessed costs of recommended changes and the source of financing thereof.

In order to execute the above-mentioned tasks, it was decided to appoint an expert working group of the Inter-ministerial Committee for Migration. The first follow-up meeting was held on 30 October 2012 with the participation of a newly-appointed working group for developing the plan of implementing the document entitled “*Migration Policy of Poland – the Current State of Play and the Further Actions*”. A text of an action plan concerning the implementation of postulates included in the strategic document is to be an outcome of the group’s work. The text will be presented to the Chairman of the Inter-ministerial Committee for Migration.

It is worthwhile to note that in practice, some of the assumptions and recommendations stated in the strategic document were executed in 2012 and postulated in amendments of applicable acts, in the assumptions of the bill on foreigners, or in a concept of *modus operandi* by the Polish Border Guard. The above-mentioned document has a considerable influence on a construction of **newly prepared bill on foreigners** to replace the Act of 2003 that was frequently amended. Social consultations regarding the bill on foreigners were carried out by the end of November 2012. The objective of the Act is not only the adaptation of Polish related regulations to EU regulations, including among others, a *Directive on a single application procedure for a single permit for third-country nationals to reside and work on the territory of a Member State* but also for the rearrangement of procedures concerning the legalisation of residence and issuance of appropriate

permits to foreigners towards their relaxation and better clarity.²⁶

Additionally, in course of 2012, Poland actively participated in the so-called trialogues, i.e. meetings of the delegations of European Parliament, European Commission and presidency and technical discussions with the European Parliament. During the past reporting period, **works in the priority fields relating to migration and asylum**, identified to the EU Council already during the Polish presidency (from 1 July to 31 December 2011), were in progress. The following elements belong to the most important ones:

- develop practical aspects of *Integrated Management of the Borders* and supporting the best practices in the field of border protection (including Schengen evaluation);
- develop mobility dimension and safety of the policy of the Eastern Partnership by initiating and implementation of various forms of cooperation in the field of effective border protection, increase capability to govern migrations (including the liberalisation of visa regime and fighting illegal migration);
- continue works on the *Common European Asylum System*. Active search and negotiations of political understandings on key legislations.

2.2. Overall developments in asylum and migration

In 2012, a decision on the directions of regulations relating to migration and asylum was made. To the most important event indisputably belonged the adoption of the document entitled “**Migration Policy of Poland – the Current State of Play**”

26. Text of the bill is available on the website of the interior department under link: <http://www.bip.msw.gov.pl/portal/bip/242/21637>.

and the Further Actions” by the Council of Ministers on 31 July 2012, which required to take up a number of actions. One of significant directions of activities was the verification of the country planning documents: Long-term National Development Strategy (until 2030), Medium-term National Development Strategy (until 2020), and nine integrated strategies, i.e.: (1) Strategy of Innovation and Effectiveness of the Economy (responsible department: Ministry of Economy); (2) Strategy of the Development of Human Capital (responsible department: Ministry of Labour and Social Policy); (3) Strategy of Transport Development (responsible department: Ministry of Transport, Building and Maritime Economy); (4) Strategy of Energy Security and Environment (responsible department: Ministry of Economy); (5) The Efficient State Strategy (responsible department: Ministry of Administration and Digitalization); (6) The Strategy of the Development of Social Capital (responsible department: Ministry of Culture and National Heritage); (7) The National Regional Development Strategy – Regions Cities Rural Areas (responsible department: Ministry of Regional Development); (8) The Strategy of the Sustained Development of Rural Areas and Agriculture (responsible department: Ministry of Agriculture and Rural Development); (9) The Strategy of the Development of the National Security System (responsible department: Ministry of National Defence). Activities taken up in 2012 were mostly targeted at removing core discrepancies and ensuring proper synchronisation of objectives and specific tasks approved for execution in government documents maintaining mutual interdependencies between specific strategies and their consistency in migration policy. They mainly referred to the matters relating to the following: (1) selective opening of the Polish labour market to labour immigrants based on the principle of flexibility and increasing of the competitiveness of the Polish econ-

omy, (2) ensure proper monitoring of the labour market in the context of employing foreign nationals, (3) support active policy of integration with foreigners and counteracting their exclusion and discrimination, (4) increase Poland’s attractiveness as a potential country for settlement for highly qualified employment, research workers, specialists, students etc., (5) combat illegal migration, human trafficking, etc. Essential changes were introduced to the following documents: *The National Mid-term Strategy for Development until 2020*; *The National Long-term Strategy for Development. Poland 2030. The Third Wave of Modernity, The Strategy of the Human Capital, The Strategy of the Development of Social Capital, and The Efficient State Strategy*.

Moreover, a significant shape was given to a bill on foreigners. Works on the bill started in March 2010. In 2012, further arrangement works on the bill were in progress. The bill is to regulate most of matters relating to the residence of third-country nationals on the territory of the Republic of Poland. On 19 October 2012, the bill on foreigners was submitted for social consultations. The consultations lasted until 14 November 2012 and past that date the analysis of observations regarding the bill started. Works on finalising the text of the bill are underway; the Polish Sejm is expected to adopt the bill by the end of 2013. The above has caused that a significant part of public debates relating to the migration policy including the EU legislation currently under preparation was directly correlated with works on the text of a new Act on foreigners. It should be remembered that the new Act refers to trends followed by the Polish migration policy approved by the Council of Ministers on 31 July 2012 and harmonises the provisions of Polish law with EU regulations. The mission of the new Act is a simplification of the provisions of the currently applicable *Act on foreigners of 13 June 2003*.

A dialogue between public institutions and non-governmental organisations was focused on a number of matters touched upon in the EU legislation implemented in the national legal order. Among the most urgent is:

- **The reorganisation of the Polish Border Guard and changes in guarded centres**

In 2012, the Ministry of the Interior jointly with the Border Guard Headquarters developed a new model of operation by the Polish Border Guard that provides for an extension of tasks and power of the Polish Border Guard relating to the migration. The following will be the priority for the Polish Border Guard: surveillance of the country border constituting the external border of the European Union, combat illegal migration, cross-border crimes, and crimes with the participation of foreigners and run guarded centres for foreigners. As the outcome of these changes, the Polish Border Guard will become formation of border-migratory character. The developed solutions are based on a principle that the presence of Polish Border Guard officers in a given part of Poland was justified by actual or potential presence of foreigners. Hence, it is planned to establish new posts of the Polish Border Guard on eastern border of Poland (in Olsztyn and Biała Podlaska). Under a redesign process on 1 September 2012 a post in Lublin was launched and on 14 December 2012, in Biała Podlaska. Existing border crossing points with Ukraine (Budomierz, Dołhobyczów, Korczowa) and Belarus (Połowce) that will shorten the time of the border control at the Polish-Ukraine, Polish-Belarusn, and Polish-Russian borders will be expanded.

The changes are to take place also in the field of operation of the centres

for foreign nationals, who upon an administrative decision are obligated to leave the Poland's territory (i.e. a decision on deportation or an obligation to leave Poland). In every situation, a foreigner is placed in a special centre (a guarded centre or put under arrest for deportation) based on a court verdict. Due to the fact that special centres have been taken over by the Polish Border Guard from the Police in the so-called detention regime, this form of running the guarded centres for foreigners was abandoned. Proposals of the ministry provide for, among others, reducing the number of bars in the centres and a possibility of free movements of a foreigner within the building on condition that the safety rules are observed.

- **A situation of minors (including unaccompanied minors) in expulsion procedure**

Year 2012 recorded an abundance of interventions of non-governmental organisations regarding the operation of centres for foreigners, given the fact that families with minors and unaccompanied minors are staying at the centres. After an intervention of the Government Plenipotentiary for Equal Treatment, especially in connection with the results of monitoring carried out in guarded centres for foreigners last year by the Association for Legal Intervention in cooperation with International Humanitarian Initiative on the initiative of the Ministry of the Interior in the autumn 2012, more controls were exercised also with the participation of representatives of the department of the interior, Helsinki Foundation for Human Rights, and Association for Legal Intervention. A control team, apart from the observance of rights for foreigners at the centres, also checked a situation of children, their access to education, possibility to contact

close relatives by foreigners or use mobile telephones. In December 2012, the Minister of the Interior announced that children would be placed only in two specially arranged centres – in Kętrzyn and Biła Podlaska. Children staying in these centres will take part in education classes conducted by qualified staff having knowledge of appropriate languages. The Minister of the Interior underlined that the priority of the department is to reduce the time of children's stay in guarded centres to a minimum. This is the reason that proceedings regarding families with children will be the first to be handled. According to statistics, the number of children at the guarded centres regularly falls down. In 2012, the centres accommodated 127 children (including 16 unaccompanied minors).

- **Provision of legal assistance to foreigners**

Lack of comprehensive and permanent support mechanisms for free legal assistance in Poland (both, for Polish and for foreign nationals staying on the territory of Poland) has developed the need to start interdepartmental consultations and talks with non-governmental organisations often providing legal advice to foreigners under the projects co-financed from the EU funds. An option to develop the above-mentioned mechanisms was a subject of talks touched upon, among others, at a meeting of Consultative Committee of the system project "Development of Comprehensive and Permanent Support Mechanisms for Legal and Civil Advice in Poland",²⁷ headed by the labour and social policy department. In 2012, the most effective way of providing access to free legal assistance to a foreigner was dis-

cussed. Further discussions will continue in 2013.

Talks regarding the need to develop in Poland uniformed approach to migration were also conducted during the **2nd Congress of Demography** entitled "Poland in Europe - demographic future" held in Warsaw in 2012 from 22-23 March. The Government Population Council was an initiator of the Congress and the entire event was held under the honorary patronage of the Polish President.²⁸ The document submitted by the Government Population Council and entitled "*Foundations of the Population Policy of Poland*" directed the debate at the Congress. Four main goals of population policy were set out in the document. Apart from creating favourable conditions for family life by entering into marriage and bringing procreation plans to fruition, fostering integration in ageing society, improving public health and reducing mortality, the document stressed the importance of defining directions and principles of migration policy in Poland. As far as priorities in the area of migration are concerned, the paper identifies the following: maintaining ties with Poles living abroad and considering them as an important component of population potential, monitoring labour migration flows of Poles taking into account the situation in the local labour market, providing assistance to Polish returns, implementing recommendations stipulated in the document entitled "*Migration Policy of Poland – the Current State of Play and the Further Actions*", promoting migrations for educational purposes and achieving better understanding of contemporary

27. Details available on the website www.pozytek.pl. The project is co-financed by the European Union under the European Social Fund.

28. During meetings organised under the auspices of the 2nd Congress of Demography, experts from governmental and non-governmental organisations and representatives of many research centres including academic centres interested in the problems of demography and migration took part in discussions.

migration processes.²⁹ Dependencies between the Poland's demographic future and migrations were also discussed during many debates organised by migration organisations and scientific circles, such as, for instance, a debate of the Centre of Migration Research held in Warsaw in March 2012.

Among activities undertaken in 2012 one should also indicate those associated with:

- entrance into force on 15 August 2012 the *Act of 9 February 2012 on Polish citizenship* (Journal of Laws of 2012, item 161);
- entrance into force on 1 January 2012, the *Act of 28 July 2011 on the legalization of stay of some foreigners on Polish territory and the Act on granting protection to foreigners on the territory of the Republic of Poland and the Act on foreigners* (Journal of Laws of 2011 No. 191, item 1133);
- implementation into the Polish legal provisions of the *Directive 2009/52/EC providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals*,³⁰ the *Act of 15 June 2012 on the effects to employ foreigners staying illegally on the territory of the Republic of Poland* (Journal of Laws of 6 July 2012, item 769), which is valid from 21 July 2012;
- commencement of implementation of the *Directive of the European Parliament and of the Council 2011/95/EU*

on standards for the qualification of third country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and the protection granted to the Polish legal system;

- a dialogue, whose object was to amend the provisions of the *Act of 27 August 2004 on health services financed from public funds* (Journal of Laws of 2008 No. 164, item 1027, as subsequently amended) in order to enable the foreigners that have been granted the refugee status or subsidiary protection to obtain a status of beneficiaries other than the insured. It means that they will have right to free healthcare benefits and, in case of minors, (under 18) and women during pregnancy, childbirth and the puerperium they will be eligible to healthcare benefits financed from public funds on the same rights as Polish nationals;
- publication on 28 December 2012 of the *Regulation of the Minister of the Interior of 19 December 2012 on reporting and receiving data required for the registration and change of address and for keeping population registers and records of issued and cancelled identity cards* (Journal of Laws of 28 December 2012, item 1475); The abovementioned Regulation specifies the execution of the registration requirement by, among others, a foreign national residing on the territory of the Republic of Poland and specifically:
 - » a citizen of the European Union Member State, of the EFTA country (the European Free Trade Association) – a party to the Agreement on the European Economic Area or Swiss Confederation hereinafter referred to as “a citizen of the European Union Member State”,

29. More info available on the following websites: http://www.stat.gov.pl/gus/kongres_demograficzny_PLK_HTML.htm; <http://www.prezydent.pl/aktualnosci/wydarzenia/art.2141,ii-kongres-demograficzny.html>. Declaration of the 2nd Congress of Demography available on: http://www.stat.gov.pl/cps/rde/xbcr/gus/POZ_Deklaracja_II_Kongresu_Demograficznego_2012.pdf.

30. Journal of Laws EU L 168 of 30.6.2009.



- » a family member of a citizen of the European Union Member State not being a citizen of the European Union Member State,
- » a foreign national not being a citizen of the European Union Member State and not being a family member of a citizen of the European Union Member State.

On 12 June 2012, an important amendments to the Act of Foreigners entered into force, the aim of which is to implement the provisions of Polish law, the two EU directives, ie, the so-called Return Directive (*Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals*) and the so-called Blue Card Directive (*Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment*).³¹ The transposition of the provisions of the Blue Card Directive required adding a new Chapter 4a “Residence permit for a fixed period for the purposes of highly qualified employment”, which specifies the conditions, procedure and rules of granting the permit, as well as defining four new terms (professional experience, higher education qualification, highly qualified employment and higher professional qualifications) aimed at facilitated application of provisions. Consequently, one of the main conditions for granting the permit mentioned above is the fact that the entity which commissions work

to a foreigner is unable to meet its employment needs on the local labour market (this condition, however, is taken into account only in the first two years of the foreigner’s stay in Poland), which is confirmed under the standard procedure on the basis of unemployed registers and negative result of the recruitment process organised by the entity which intends to employ the foreigner (this procedure is currently applied under proceedings to grant a work permit). Moreover, in the course of the proceedings a voivode will examine whether the foreigner has appropriate qualifications and whether the level of remuneration specified in the foreigner’s work contract would not be lower than the equivalent of 150% of gross annual average remuneration in Poland.

New regulations introduce a number of facilitations for employees with high qualifications. They include, inter alia, the following:

- residence permits for a fixed period will be issued by way of a single administrative procedure covering both the residence permit in Poland and the work permit;
- after two years of stay in Poland, a change of the entity which commissions work to a foreigner, of position, of remuneration or of any other employment conditions will only be notified by the foreigner to the voivode, without the need for the voivode to change the permit;
- in the case of temporary unemployment, the foreigner holding a residence permit for a fixed period for the purposes of highly qualified employment will be allowed to stay in Poland;
- preferential rules of family reunification and of granting long-term EU residence permit will be applicable.

31. The newly introduced solutions are part of a larger initiative to adopt an entirely new law on foreigners (the assumptions for the project have been adopted by the Council of Ministers on 16 August 2011), however, due to prolonged work on the project and the passing deadlines for implementation of both Directive (*Directive 2009/50/EC* - on 19 June 2011 and *Directive 2008/115/EC* - on December 24, 2010), it was decided to transpose EU legislation by amending the current law.

It is important that the Blue Card in Poland can be applied for by all foreigners already holding Blue Card issued in another EU Member state, regardless of the length of stay in the EU.

The implementation of the Directive resulted also in the need to amend the *Act of 20 April 2004 on employment promotion and labour market institutions* with reference to the fact that a foreigner bearing the new type of permit is no

longer obliged to apply for a work permit. This amendment, however, is only a formality. It is worth noting that the experiences gained so far by other EU Member States and analyses carried out by Polish authorities indicate that the expected number of foreigners who could be interested in a residence permit for a fixed period for the purposes of highly qualified employment will be rather low (up to around a dozen persons per year).

Table 1. The list of administrative acts related to foreigners adopted in 2012

Journal of Laws 2012 item 1471	Regulation of the Minister of Interior of 12 December 2012 amending Regulation on specimen requests for access to data from the register of residents, resident foreigners register and register of Social Security and the procedure for obtaining consent for the sharing of data on proof of actual interest
Journal of Laws 2012 item 1469	Regulation of the Minister of Interior of 12 December 2012 amending the Regulation on the recording mode data in the registry and social security records and registers of residents living foreigners
Journal of Laws 2012 item 1464	Regulation of the Council of Ministers of 12 December 2012 amending Regulation on fees for access to the registers residents, resident foreigners registers and registers of Social Security (PESEL)
Journal of Laws 2012 item 1305	Regulation of the Minister of Interior of 12 November 2012 amending the regulation on the handling of the remains foreigners placed in a guarded center or in custody prior to deportation
Journal of Laws 2012 item 1236	Regulation of the Minister of Interior on 22 October 2012 amending Regulation on the establishment of the guarded center for foreigners in Biala Podlaska
Journal of Laws 2012 item 1003	Regulation of the Minister of Health of 24 August 2012 on an adaptation for foreigners applying for the right to practice as a nurse or midwife
Journal of Laws 2012 item 779	Regulation of the Minister of Interior of 29 June 2012 on the minimum wage required for a foreigner to grant temporary residence in order to work in highly qualified
Journal of Laws 2012 item 769	The Act of 15 June 2012 on the effects of entrusting work to foreigners illegally staying on the territory of the Republic of Poland
Journal of Laws 2012 item 729	Regulation of the Minister of Interior on 20 June 2012 on the detailed information and the types of documents that are required to submit a foreigner applying for a permit to acquire real estate
Journal of Laws 2012 item 680	Notice of the Polish Parliament on 22 May 2012 on the publication of the consolidated text of the Act on granting protection to foreigners on the territory of Poland
Journal of Laws 2012 item 589	The Act of 27 April 2012 amending the the Act on Foreigners and the Act on employment promotion and labor market institutions
Journal of Laws 2012 item 347	Regulation of the Minister of Interior of 16 February 2012 on the recording mode data in the registry and social security records and registers of residents living foreigners
Journal of Laws 2012 item 213	Regulation of the Minister of Interior on 20 February 2012 laying down the model certificates entitling to import into territory of Poland, export from that territory and carry their weapons and ammunition, the model certificates procurement of arms or ammunition by foreigners and Polish citizens who have a permanent abroad, and the model approval for the export of arms and ammunition from the territory of the Republic of Poland
Journal of Laws 2012 item 161	The Act of 2 April 2009 on Polish citizenship
Journal of Laws 2012 item1474	Regulation of the Minister of Interior of 13 December 2012 on the establishment of additional air border crossings

Journal of Laws 2012 item 1473	Council of Ministers of 17 December 2012 amending Regulation on the establishment of regular air and sea border crossings and traffic type permitted by the transition
Journal of Laws 2012 item 1194	The Act of 14 September 2012 amending the Law of veterinary border inspection posts and the Law - Postal Law
M.P. 2012 item 898	Statement of the Minister of Interior of 12 November 2012 on the publication of border crossings, traffic type permitted by these transitions and the time of opening
Journal of Laws 2012 item 806	Regulation of the Council of Ministers of 11 July 2012 amending Regulation on the establishment of regular air and sea border crossings and traffic type permitted by the transition
Journal of Laws 2012 item 805	Regulation of the Minister of Interior of 6 July 2012 amending Regulation on the establishment of additional air border crossings
Journal of Laws 2012 item 566	Regulation of the Minister of Interior of 17 May 2012 on the temporary restoration of border control of persons crossing the state border representing an internal frontier
Journal of Laws 2012 item 212	Regulation of the Minister of Agriculture and Rural Development dated 9 February 2012 amending Regulation on the list of border crossing points where the customs authorities shall inspect moving non-commercial pet animals accompanying travelers
M.P. 2012 item 47	Communication from the Minister of Interior on 26 January 2012 on the adoption by the Council of Ministers resolution amending the resolution on establishing a multiannual program under the name „The development of border infrastructure in the Polish-Ukrainian border in 2010-2013”

Source: Online System of Legal Acts (<http://isap.sejm.gov.pl>)

In 2012, at the EU level were carried out vigorous activities on the preparation of a text of the Directive setting up an **EU Asylum and Migration Fund (AMF)**. In a special way, the debate was carried out on the document of the *Regulation EU of the European Parliament and of the Council No. 1024/2012 of 25 October 2012 on administrative cooperation through the Internal Market Information System and repealing a Commission Decision 2008/49/EC* (“the IMI Regulation”).³²

In 2012, the first findings of the **2011 National Population and Housing Census** were promulgated. According to the results app. 98.2% (37 820.7 thousand) of the so-called resident population mentioned Poland as their country of origin,³³ less than 1.8% (674.9 thousand) were

born abroad, and for 0.04% of population (16.2 thousand) – the country of origin was not settled. The census of 2011 showed that that the number of people born abroad dropped by 100 thousand comparing to the 2002 census when this figure came to 775.3 thousand. The drop results from the fact that the majority of individuals born abroad are persons born before 1945 on the territory of today’s Ukraine, Belarus and Lithuania and they are now living mainly on the territory of western and northern Poland (this number shows downward trend every year mainly due to death, as in 2002, these persons were 65 years old and more). Whereas the number of children born abroad due to the latest emigration that increased after the Poland’s accession to EU went up. In 2002, among children born abroad were 37.5 thousand of individuals in 0-14 age group. Currently, this figure amounts to app. 100 thousand. The increase is not that big to compensate for the loss of older population born abroad. The vast majority of people born abroad are Polish citizens with foreigners accounting for less than 7% (47 thousand).

32. OJ of the European Union L series 316, 2012 item 1. Poland used the above-mentioned mechanism in the autumn 2011 upon information of other EU Member-States regarding the regularisation programme launched on 1 January 2012, legalising the stay of foreigners in the territory of the Republic of Poland.

33. According to methodology adopted in the 2011 census, the country of origin should be indicated, as in 2002, considering the borders valid at the time of census and not at the birth time.

The 2011 census showed that 56.3 thousand of permanent residents being foreign nationals live in Poland with 40.1 thousand for more than three months. Over 29 thousand are immigrants having resided in Poland for at least 12 months with more than 36.1 thousand planning to stay for a year or longer. Although in 2011 more immigrants were listed than in

the previous census (according to 2002 census, some 34.1 thousand immigrants were living in Poland for more than two months), it is estimated that the values obtained in both censuses are understated, especially while taking into consideration persistently growing number of valid residence cards held by foreigners in a given year.

Chart 1. The number of valid residence cards issued to foreigners and the number of foreigners registered by the National Census



Source: Ministry of the Interior
 *due to the fact that data regarding valid residence cards issued to foreigners are available from 2006, there is lack of information on the number of residence cards issued to foreigners valid as of 31 December 2002, 2003, 2004 and 2005

Despite of marked understatement of an immigration scale, experts from the Central Statistical Office, based on the gathered data, have attempted to characterise this community in terms of demography as well as the country of origin and the region of residence in Poland. According to the obtained figures, among immigrants living in Poland in 2011 for more than 3 months, women outnumbered men and accounted for almost 54% of the total number, while in 2002, men were in slight majority. An apparent majority of immigrants (almost 82%) reside in cities. Immigrants are a relatively young group since half of them are below 28 while mobile working age population (18-44) account for 70 % of the total number. Almost every fifth immigrant is in 20-24 years age group. The majority of immigrants come from neighbouring countries, such as Ukraine (over 17%) and

Germany (almost 10%), next on the ranking list follow foreign nationals from Belarus, Russia, China, Bulgaria and Vietnam. Distribution of immigrants in Poland is not equal. Over half of them live in the area of four voivodeships (Masovian Voivodeship - over 1/4 of immigrants, Dolnośląskie, Małopolskie, and Śląskie Voivodeships count approx. 9% each.

In course of the Polish Presidency of the EU Council, in the second half of 2011, works of EU Council Working Group on Integration, Migration and Expulsion (Admission) were carried out on two draft directives related to the conditions of entry and stay of third-country nationals within the framework of an intra-corporate transfer and on the conditions of entry and residence of



third-country nationals for the purposes of seasonal employment. During the Danish Presidency (first half of 2012), works on conditions of entry and stay of third-country nationals within the framework of an intra-corporate transfer were transferred from the forum of the above-mentioned working party to JHA advisors. Legislation works on draft directive on the conditions of entry and residence of third-country nationals for the purposes of seasonal employment were transferred to JHA advisors during the Cyprus Presidency (the second half of 2012). In course of the Irish Presidency, (the first half of 2013), works on the above-mentioned draft directives are being carried out under trilogues and technical meetings at the European Parliament.

Negotiations on legislation targeted at the construction of the second stage of the *Common European Asylum System*, carried out by the Polish Presidency, continued during the Danish and Cyprus Presidencies. Poland assessed the outcome of the above-mentioned cooperation as satisfactory.

A report summarising the execution of the 18-month trio PL-DK-CY programme highlights that according to the provisions of the *Stockholm Programme*, the trio activities in the field of asylum were targeted at the conclusion of negotiations on the *Common European Asylum System* by the end of 2012. Special attention was paid to a problem of solidarity with EU Member-States facing tremendous migratory pressure. This was the context for a discussion on just share of burdens among Member-States, support granted by EU Agencies (EASO, FRONTEX), financing from EU funds and support in the process of building capabilities in the field of asylum.

As it was underlined in the report summarising the execution of the 18-month programme, a considerable progress has been made in the following CEAS areas:

- in December 2011, i.e. during the Polish Presidency in the Council of the European Union *Directive 2011/95/EU of the European Parliament and of the Council, on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection grant (recast)*;
- in October 2012, a political agreement was reached with the European Parliament (EP) on the *proposal of the EC on the Directive of the European Parliament and of the Council laying down the standards for the reception of asylum seekers (recast)*;
- in November 2012, a political agreement was reached with the European Parliament (EP) on a *proposal of the EC on the Regulation of the European Parliament and of the Council for international protection lodged in one of the Member States by third-country nationals or stateless persons establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)*;
- in March 2012, conclusions of the EU Council regarding the solidarity with Member-States subjected to increased migratory pressure were adopted;
- an informal trilogue with the European Parliament on the text of an *amended proposal concerning the Directive of the European Parliament and of the Council on common procedures of granting and withdrawing international protection (recast)*. Negotiations with

the Council on the text were already initiated by the Polish Presidency;

- an informal trilogue with the European Parliament on the text of a *recast proposal for the recast of the Eurodac*³⁴ Regulation was initiated – the proposal was published by the EC on 30 May 2012, and during the Cyprus Presidency, a political agreement was reached at the Council and a first round of a trilogue with the European Parliament was conducted.

During the 18-month trio (PL-DK-CY) presidency programme, major progress was made in all CEAS areas

In course of the Polish Presidency of the Council of the European Union, European Commission was granted negotiation mandates in order to conclude agreements on readmission with Armenia and Azerbaijan. Currently, the works are in the last stage

34. The recast proposal concerns the Regulation of the European Parliament and the Council on establishing "EURODAC" system for comparing fingerprints for effective application of the (EU) Regulation No. [...] [setting criteria mechanisms to determine the Member-State responsible for examining an application for international protection lodged in one of the Member-States by a third-country national or by a stateless person] and to request comparisons with EURODAC data by Member States' law enforcement authorities and Europol for law enforcement purposes and amending Regulation (EU) No. 1077/2011 (EU) establishing an Agency for the operational management of large-scale IT systems in the area of freedom, security and justice. More information available on <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+REPORT+A7-2012-0432+0+DOC+XML+V0//PL>.

and shortly the conclusion of appropriate agreements with these states is anticipated.

During the Presidency of the Council of the European Union in 2011, a special attention was paid to increasing the capacity in migration management (including the promotion of legal and combating and reducing the scale of illegal migration). Recognising the importance of the problem of individuals that entered the EU legally but reside in its territory on irregular basis (the so-called overstayers), The Polish Presidency decided to continue the initiative of organising joint HERMES and MITRAS operations oriented at this problem and coordinated earlier by the Belgian and Hungarian Presidencies. Poland carried out DEMETER operation, whose goal was to present an image of illegal migration in particular EU Member-States. Poland also proposed that the exchange of information in this area be made, for instance, on quarterly basis for the debates of the FRONTIERS Working Party. The proposal is backed by the fact that such operations as DEMETER are almost traditionally carried out by subsequent Presidencies, many EU Member-States take part in the operations (always over 20), and the results are watched with great interest. It should be mentioned in this context that the subsequent Danish Presidency carried out the joint operation BALDER that was a continuation of operations performed by former Presidencies (Belgian, Hungarian and Polish) and precisely speaking, a continuation of joint HERMES, MITRAS, and DEMETER operations. This operation was taking place from 16-22 April 2012 in all Member-States that declared their participation and in associated states.

BALDER operation focused on the monitoring of illegal migration in the EU and on the Schengen Area. The operation's main goal was to collect information on the main routes of illegal immigrants, the countries of origin of migrants, the main countries of destination of migratory flows, the spots of

detaining illegal immigrants and the means of transport they used. The operation included 2 396 detentions of illegal migrants (460 more than during the DEMETER operation). Most of detentions were recorded in Germany and Spain. The majority of migrants came from Afghanistan, Ukraine, Morocco, Pakistan, Serbia, Libya, Russia, and China.

During the Cyprus Presidency, APHRODITE operation was performed (also a continuation of operations carried out by former Presidencies). The operation was taking place from 22 October to 4 November 2012 and was targeted at combating illegal migration and identification of routes of illegal secondary migration in the EU and at comparing the results of the operations with the former operations.

3

Legal Migration and Mobility



3.1. Economic migration

Based on the assumptions indicated in a strategic document entitled “*Migration Policy of Poland – the Current State of Play and the Further Actions*” on 18 October 2012, works on the bill on foreigners that is to regulate the majority of matters relating to the stay of foreign nationals on the territory of the Republic of Poland³⁵ were finalised. Chapter five of the discussed bill implements in the Polish legal order provisions of *Directive 2011/98/EU of the European Parliament and of the Council on a single application procedure for a single permit for third-country nationals to reside and work on the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State* (OJ of the European Union L series 343, 23.12.2011). The planned provisions anticipate that a foreigner residing on the territory of the Republic of Poland for the purpose of employment will have an opportunity to apply under one procedure for a single permit that will authorise him to work and stay in Poland at the same time. The above solution is of an innovative nature with regard to applicable regulations. Under applicable law, an employer that wants to hire a for-

ign national on the territory of the Republic of Poland is first obligated to obtain a work permit and then a foreigner may apply for a residence permit. In the present regulatory environment, matters relating to the issuance of work permits are regulated under the *Act of 20 April 2004 on the promotion of employment and on labour market institutions* whereas matters relating to the legalisation of stay of foreigners are regulated under the *Act on foreigners*. Draft regulations introduce one procedure for obtaining temporary residence permit for the purpose of employment and two documents relating to the work permit will be replaced by one. The above solution will not apply to the transferred employees, regardless whether their undertaking is established in a Member-State or in a non-member country throughout the entire period of secondment. The described-above category of employees will be able to obtain a temporary residence permit on terms described in a separate section of the chapter concerning the temporary residence permit.

Draft regulations do not provide for abandoning the procedure of issuing work permit. It will remain in its present form in the *Act on promotion of employment and on labour market institutions* and will enable an employer to obtain a work permit for foreigners staying outside Poland and only intending to enter Poland based on a visa obligation or on visa free regime or holding a different residence title in Poland and

35. On 19 October 2012, the above-mentioned bill on foreigners was submitted for social consultations. Consultations lasted from 14 November 2012 and past that date, the analysis of proposed comments to the bill started.



that want to take up employment in Poland. A procedure of issuing separate work permits will also be provided for employees seconded by an undertaking established in a non-member country. A voivode will issue a work permit based on the *Act of 20 April 2004 on the promotion of employment and on labour market institutions* and a temporary residence and work permit under the draft regulation. Currently, the voivode is a competent body for the issuance of residence permits for the determined time and for work permits. A competent minister for labour affairs will be a second instance body for work permits whereas for temporary residence permit and for work permit the Head of the Office for Foreigners.

Pursuant to the draft regulation, an application for granting a temporary residence and work permit can be filed by a foreigner that intends to stay in Poland and perform work for more than 3 months. According to applicable provisions of the *Act on promotion of employment and on labour market institutions*, only an employer can file an application for work permit while a foreigner is deprived of such right. The proposed solution provides for a possibility that a foreigner applying for such permit will submit data and information concerning an employer. The draft regulation combines procedures to be included in the *Act on promotion of employment and on labour market institutions* and in the *Act on foreigners*. In course of the ongoing proceedings for a permit, a voivode will examine whether there are reasons to grant a foreigners a temporary residence permit. Moreover, the voivode will consider the fact whether an employer is able to satisfy his staffing needs in the local market. Such decision can be made based on information supplied by a starosta stating that personnel needs of the employer cannot be met by the resources available on the local market according to the records of unemployed and job seekers or due to negative results relating to the recruitment organ-

ised for the employer. Such information will be submitted on the initiative of the employer and then attached by a foreigner to an application for a temporary residence and work permit. The voivode will examine whether the remuneration set forth in a contract of employment with a foreigner is not lower from the remuneration paid to the employees performing similar work or holding a similar position.

A foreigner granted a temporary residence and work permit will obtain an administrative decision including information concerning an employer, for whom such a foreigner will perform services under an employment relationship, position to be held and terms and conditions of employment. A way of examining the income criterion comparing with the present regulations has also been changed. It is assumed that a foreigner will be obligated to provide evidence that he has stable and regular resources that should amount at least to minimum monthly wages determined in separate regulations. Also an income per capita of every dependant of a foreigner will have to be higher than the income amount, on which social security benefits in cash are granted under the *Act of 12 March 2004 on social assistance*. Public authorities are not obligated to examine the costs of living of a foreigner in Poland. Furthermore, the proposed solutions leave aside the requirement to submit the legal title to the occupied dwelling by an applicant. The interested party however, will be obligated to state that he has a dwelling place in Poland. Such a solution should improve the execution of the legalisation procedure connected with the residence of foreigners, who want to take up an employment in Poland. New solutions have also been introduced. They regulate a matter of a foreigner's right to change an employer and admit a one-month period of unemployment. A foreigner will have a right to change a job or be temporarily unemployed, which will not effect in auto-

matic withdrawal of a temporary residence and work permit.

The final wording of the draft Act has not been approved yet, since the work on the social consultations analysis continues. The new Act on foreigners is to be passed by the Sejm of the Republic of Poland in 2013.

An important measure promoting legal migration channels was the adoption of the *National Action Plan for Employment for 2012-2014* by the Council of Ministers on 21 August 2012. The Plan provides for

„National Action Plan for Employment for 2012-2014” provides for development of the system of electronic registration of employers’ declarations

a number of actions related to migration, such as dissemination of reliable information on the possibility of undertaking economic activity in Poland; development and implementation of legal changes related to employment of foreigners, offering a possibility of flexible reaction to labour market needs in various sectors and professions; introduction of new methods of monitoring the deficit and surplus professions on the labour market, which should result among others in the improvement of labour migration management at the regional and national level; development of the system of electronic registration of employers’ declarations of the intention to employ foreigners, with the aim to decrease the scale of irregularities and to monitor more efficiently the demand for short-term foreigners’ employment in Poland. It also provides for additional ac-

tivities aimed at integrating the refugees on the labour market (such as trainings and internships, incentives for employers).

A basic principle applying to the creation of the state policy in meeting the demand of the domestic labour market is the one ensuing from art. 8 par. 1 clause 3 and art. 9 par. 1 clause 9 of the *Act of 20 April 2004 on the promotion of employment and on labour market institutions* (Journal of Laws of 2008, No. 69, item 415 as subsequently amended) that states that one of tasks assigned to local and regional authorities of the voivodeship and of the poviats in the field of the labour market policy is to compile labour market analyses including the monitoring of surplus and deficit occupations. Such monitoring is carried out in compliance with the standard rules based on methodological recommendations developed at the Ministry of Labour and Social Policy. Methodological recommendations set, among others, the scope of preparing half-yearly and annual poviats, voivodeship, and national reports. In 2012, activities in favour of the development of new methodological recommendations regarding the monitoring of deficit and surplus occupations were undertaken. The task is being implemented under the project co-financed from the European Social Fund. The above-mentioned monitoring includes groups or occupations and specialities listed in the Classification of Occupations and Specialities introduced under the *Regulation of the Minister of Economy and Labour on 8 December 2004 on the classification of occupations and specialities for the labour market use and the range of its application* (Journal of Laws No. 265, item 2644 and of 2007 No. 106, item 728). Another source of information regarding the personnel shortage on the local labour markets are lists included in the criteria for issuing work permits for foreigners determined separately for each voivodeship by a competent voivode. The so-called voivodeship criteria provide a tool of flexible use of rules regarding the issuance of work permits that

allow to differentiate the demand on the local labour market.

It should also be noted that the *Act of 15 June 2012 on the effects of employing foreigners illegally residing in Poland* (Journal of Laws of 2012, item 769) set new tasks both, for labour inspectors (such as control of the performance of duties by an entity employing a foreigner, provided for by new regulations and prosecution for the offences), and for the National Labour Inspectorate (reporting duties). The Act referred to came into force on 21 August 2012 and transposes into the Polish order the norms set forth in the *Directive No. 2009/52/EC of the European Parliament and of the Council dated 18 June 2009 providing for minimum standards for sanctions and measures against employers of third-country nationals illegally residing*.³⁶ Pursuant to art. 2 and 3 of the above-mentioned Act, an entity employing a foreigner is obligated to require from a foreigner a valid document authorising him to stay on the territory of the Republic of Poland prior to his entering on duty and to keep a copy of such document throughout the entire period of the employment of such foreigner. Art. 11 of the Act specifies a new offence consisting in employing a foreigner residing without a valid document authorising him to stay on the territory of the Republic of Poland if such work has no connection with business activity of the employer hiring such a foreigner (an employer faces a fine up to PLN 10 000 ~ EUR 2 000 with an option of a penalty notice imposed by labour inspector at the amount of up to PLN 2 000~ EUR 500). Inciting and aiding in the above offence is punishable.³⁷

36. Official Journal of the EU series L 168 of 30 June 2009, page 24.

37. Pursuant to art. 14 of the Act, a Border Guard body exercising control or a labour inspector have been appointed for the prosecution of this offence. These entities play a role of a public prosecutor in these cases. Additionally, in art. 9 and 10 of the presented Act, the following new offences in the following forms have been provided for:

- entrusting at the same time the performance

of work to many foreigners staying in Poland without a valid document entitling to stay in the territory of the Republic of Poland;

- entrusting the performance of work to a minor foreigner staying in Poland without a valid document entitling to stay in the territory of the Republic of Poland;
- persistent entrusting the performance of work in connection with business activity to a foreigner staying in Poland without a valid document entitling to stay in the territory of the Republic of Poland;
- entrusting the performance of work to a foreigner staying in Poland without a valid document entitling to stay in the territory of the Republic of Poland in specifically harsh conditions;
- entrusting the performance of work to a foreigner staying in Poland without a valid document entitling to stay in the territory of the Republic of Poland that is a victim of crime specified in art. 189a § 1 of the *Criminal Code* (Human trafficking).

38. The simplified system allows the Polish entities to legally employ foreigners with minimal formalities - the registration of the employer's declaration on the intention to employ a foreigner is an act of material and technical nature and is performed free-of-charge and in the majority of the cases also immediately. The registered declaration is provided to the foreigner and constitute the basis for applying for a visa at the consulate. Apart from minimal formalities, the advantages of the system include its flexibility and adequacy with regard to demand. The overwhelming majority of foreigners performing work pursuant to declarations are employed in agriculture and constitute an important percentage of mobile workers moving to perform seasonal work. This is facilitated by the possibility to work pursuant to declarations of different employers. The functioning of the simplified system is an important element of the policy of openness to the east, which is one of the main objectives of the Polish foreign policy and is also compliant with the recommendations in the area of migration policy adopted by the Council of Ministers. The system is also praised by both employers and foreigners. For more information please consult the EMN national reports on satisfying shortages on the local labour market and temporary and circular migration prepared by the National Contact Point to the EMN. Those documents are available on the web site <http://www.emn.gov.pl> (Tab Reports).

threats related to the work of foreigners in Poland. The materials will be distributed i.a. among the Polish consular offices in the said countries and among the poviats labour offices (materials in Polish), as well as via the National Labour Inspectorate.

It is also worth noting that the inter-ministerial discussions are underway on the planned opening of the domestic labour market for the citizens of Armenia, in line with the simplified procedure for employment.

In order to improve the operation of the above-mentioned simplified system and minimisation of abuses occurring therein connected with, among other things, ac-

Inter-ministerial discussions are underway on the planned opening of the simplified system to the citizens of Armenia

tivity of unfair intermediaries operating on the territory of Ukraine and Poland, the Ministry of Labour and Social Policy initiated talks with representatives of Ukraine authorities on various cooperation forms in this respect. The talks were conducted on the occasion of a meeting of the Polish-Ukraine Intergovernmental Commission for Economic Cooperation, held in Kiev, May 2012. An initiative of Polish-Ukraine cooperation on short-term migration of which one of the anticipated elements is a Polish-Ukraine seminar targeted at the development of the best possible forms of cooperation in the field of labour migration, was positively assessed by the Ukrainian side, which expressed substance-related

support and assistance in identifying appropriate partners. The above has been reflected in the text of the Minutes of the Fifth Polish-Ukraine Commission for Economic.

On 18 May 2012 in Kiev the Ministers of Labour and Social Policy of Poland and Ukraine signed the Agreement between the Republic of Poland and Ukraine on Social Security and the Administrative Agreement on its application, which is of particular importance for the improvement of the situation of migrant workers from Ukraine, who are the dominant group of foreigners working in Poland.³⁹

An extensive range of changes with regard to access of foreigners to the labour market is provided for by the draft assumptions to the Act on amending the Act on employment promotion and labour market institutions and certain other Acts, over which the permanent works lasted in 2012 (in 2013 the draft was submitted for inter-ministerial consultations).

The main direction of the changes is the introduction of mechanisms enabling the more effective fight against fraud with regard to employing foreigners on the basis of the so-called simplified procedure. Therefore, the following have been proposed:

- the imposition on an employer of an obligation to include, in an agreement concluded with a foreigner, conditions set out in the registered declaration (remuneration may not be lower than that in the declaration),
- the introduction of an obligation to inform poviats labour offices of taking up, interrupting and termination of work by a foreigner and a failure to fulfil this obligation is threatened with sanctions in the form of a fine or depriving

39. More on the web site: http://emn.gov.pl/portalese/719/9331/Poland_and_Ukraine_signed_the_agreement_on_social_security.html.

an employer of a possibility to register declarations for a given period of time (an employer will have 7 days from the date of occurrence of a given event to inform a poviát labour office about this event; should a foreigner not take up work, the obligation to inform a labour office of that fact will arise after the lapse of the 30th day from the work commencement date specified in the declaration);

- the extension of the range of data collected and processed by the labour market institutions by data on declarations as well as providing the more efficient flow of information between the authority registering declarations and authorities controlling the legality of the employment, i.e the National Labour Inspectorate and Border Guard.

The new regulations are to help monitor the scale of the actual use of declarations, detect pathological phenomena consisting in the misuse of declarations and identify enterprises which de facto are not going to employ a foreigner.⁴⁰

The National Labour Inspectorate, as an expert partner, participated in an international project The posting of workers. Development of cooperation between the bodies of public authorities and social partners. The project is underway, beginning as of July 2012 and will last until June 2013 and the National Institute for Labour, Employment, and Vocational Training (INTEFP) coordinates the project. The purpose of the project is to work out and develop cooperation tools between public authorities and social partners of the EU states to increase the effectiveness of protection of workers posted to temporary perform-

ance of work abroad in two sectors: construction and agriculture.

3.2. Family reunification

According to the new bill on foreigners of 18 October 2012, matters referring to family reunification will be included in art. 155 with clause 1 determining that a separate temporary residence permit to reunify with a family will be granted to a foreigner if he fulfils the following conditions: (1) resides on the territory of the Republic of Poland or stays in that territory in order to reunify with a family or is a family member of a foreigner living on the territory of the Republic of Poland; (2) holds health insurance for the purpose of *Act of 27 August 2004 on publicly funded health-care benefits* or confirmation of covering of the treatment costs on the territory of the Republic of Poland by an insurer or stable and regular income source sufficient to maintain himself or the members of his family; (3) has a secured dwelling place on the territory of the Republic of Poland. A member of a foreigner's family that resides on the territory of the Republic of Poland or stays thereon in order to unify with a family and is a family member of a foreigner living in Poland is considered (1) a person lawfully married to a foreigner for the purpose of law recognised on the territory of the Republic of Poland; (2) a minor dependent and a person being in matrimonial relationship recognised by Polish law including an adopted child; (3) a minor of a foreigner including an adopted child being his dependant and remaining under a foreigner's actual custody or if a foreigner exercises parental authority over such child; (4) a minor of a person specified in clause 1 including an adopted child being his dependant and remaining under a foreigner's actual custody or if a foreigner exercises parental authority over such child.

The final wording of the draft Act has not been approved yet, since the work on the

40. Draft assumptions to the act are available under: <http://www.mpips.gov.pl/bip/projekty-aktow-prawnych/projekty-ustaw/rynek-pracy/>. More on the web site: http://www.emn.gov.pl/portal/esm/704/10279/Planowane_zmiany_w_tzw_uproszczonym_systemie_zatrudniania_cudzoziemcow_w_Polsce.html

social consultations analysis continues. The new Act on foreigners is to be passed by the Sejm of the Republic of Poland in 2013.

3.3. Students and researchers

A matter of the migration of students to EU Member-States was one of vital matters of debates on an EU forum in 2012. One of signs of the above-mentioned trends was the preparation by the European Migration Network a report analysing to what extent the state policy increases interest in taking up studies by a third-country nationals and the extent to which educational migrations to the European Union are used for other purposes than education. The above EMN report will provide the basis for undertaking appropriate activities identified by the European Commission in a report on the former implementation of the *Council Directive 2004/114/EC of 13 December 2004 on the conditions of admission of third-country nationals for the purposes of studies, pupil exchange, unremunerated training, or voluntary service*. A conference organised in December 2012 by a National Contact point of the European Migration Network in Poland also dedicated to the above-mentioned subject⁴¹ was greatly appreciated by national experts in public administration and by those representing non-governmental organisations.⁴² The exchange of views also referred to the regulation provided for in a new Act on foreigners adopted on

18 October 2012 that assumes numerous facilitations for foreigners including students and research workers. One of the chapters of the above-mentioned bill concerns temporary residence permit granted to foreigners for studying in the first cycle programme of higher education, second cycle programme of higher education or for masters and doctoral studies. Most of the solutions proposed in that chapter coincide with former applicable provisions of the Act on foreigners. New solutions have been proposed to foreigners, who have taken up studies at Polish universities. In such cases, a temporary residence permit for the purpose of studying in higher education institutions or to those foreigners, who undertake doctoral studies will be granted at the first year of studies for a period of 15 months (art. 141 of the bill). If an application for a permit shows that the stay should be shorter than one year, a residence permit will be granted for one academic year or for a period of studies (lasting shorter than one year) plus three additional months. Foreigners of the second or subsequent year of studies continuing their education can obtain temporary residence permit for two years. An option of granting a temporary residence permit for foreigners that are graduates of Polish universities and seek employment in Poland will also be available.

The project anticipates that the above-mentioned permit will be granted to a foreigner if the purpose of his stay on the territory of the Republic of Poland are studies or continuation of full time studies or doctoral studies also in such a case when they are a continuation or supplement of studies undertaken on the territory of another European Union Member-State.

The bill also determines that there is an option of granting a temporary residence permit to a foreigner being a research worker in order to carry out a research work under a contract on the execution of a research project concluded with a re-

41. More information on the website of the EMN national contact point http://www.emn.gov.pl/portal/esm/711/9899/Czwarta_Konferencja_Krajowej_Sieci_Migracyjnej.html.

42. The results of report of the European Migration Network were also presented and submitted for discussion during a "Foreign Students in Poland 2013" conference organised jointly under the "Study in Poland" programme by the Conference of Rectors of Academic Schools in Poland, Warsaw University, and Educational Foundation "Perspektywy". Over 250 persons from 95 universities and governmental and non-governmental institutions connected with internationalisation of the Polish higher education took part in the conference.

search entity mentioned in art. 2 par. 9 of the *Act of 30 April 2010 on the principles of financing science*.⁴³

The final wording of the draft Act has not been approved yet, since the work on the social consultations analysis continues. The new Act on foreigners is to be passed by the Sejm of the Republic of Poland in 2013.

3.4. Other legal migration

Act of 28 July 2011 on the legalisation of stay of some foreigners on the territory of the Republic of Poland and amendments to the Act on granting foreigners protection on the territory of the Republic of Poland and the Act on foreigners (Journal of Laws of 2011 No. 191, item 1133) came into force on 1 January 2012. The purpose of the text of the regulation referred to enables to legalise the stay on the territory of Poland on a temporary basis to a specific group of foreigners, whose stay in Poland on 1 January 2012 was considered irregular. The above abolition for foreigners was accompanied by information campaign carried out on a large scale. Applications for residence permit for a time determined under the abolition procedure could be filed until 2 July 2012. The number of filed applications for temporary residence permit under the abolition procedure came to 9 555.

As of 30 July 2012, also nationals from Ukraine and Russia from the Kaliningrad Region can apply for a document permitting to cross the border under the local border traffic regime. The above takes place under the *Agreement between the Government of the Republic of Poland and the Government of the Republic of Russia on the principles of crossing the border under the local border traffic regime*

signed in Moscow on 14 December 2011 in accordance with the procedure stipulated in art. 89 par. 1 clause 5 of the *Constitution of the Republic of Poland*. The object of the Agreement was to create opportunities to lower the barriers in international contacts by facilitating the crossing of the Polish-Russian border-by-border residents of both countries. Furthermore, the Agreement is to contribute to social, cultural, and economic revival, specifically on the Polish side, mainly in the trade and service sector including hotel industry and tourism. As of coming the Agreement into force (that is from August to December 2012), the number of issued permits for crossing the border under the local border traffic regime has been regularly increasing. During that period, Russians citizens were granted the total of 17 thousand and 846 documents (which accounts for 37% of all documents of this type).⁴⁴

In 2012, over 75 thousand (over 62% more than in 2011) of permits for crossing the border under the local border traffic regime were issued. Such big increase of issued last year documents is an outcome of including the nationals from the Russian Federation in that system. Earlier, in 2009-2011, the document was issued to nationals from Ukraine exclusively. The Embassy of the Russian Federation in Warsaw and the General Consulate of the Russian Federation in Gdansk issue permits for crossing the border under the local border traffic regime to Poles whereas the Russians obtain such document from the Consul of the RP in Kaliningrad. A fee for examining of an application and issuance of the permit comes to 20 euro. Children, youth under 16, persons over 65 and people with disabilities with accompanying persons are exempted from the payment. The border zone subject to the local border traffic regime is set up in the following cities: Gdansk, Gdynia and Sopot and Poviats: Gdansk, Nowy

43. Journal of Laws of 2010, No. 96, item 615, of 2011, No. 84, item 455 and No. 185, item 1092.

44. More http://msw.gov.pl/portal/pl/2/10701/Maly_ruch_graniczny__ponad_62_wiecej_zezwoleń_w_2012.html.

Dwór, Malbork and Puck. The border zone on the Polish side is also situated in the area of Warmian-Masurian Voivodeship in the following cities: Elbląg, Olsztyn, and in districts (Powiat): Elbląski, Braniewski, Lidzbarski, Bartoszycki, Olsztyński, Kętrzyński, Mrągowski, Węgorzewski, Giżycki, Gołdapski, and Olecki. On the Russian side, the local border traffic regime is applicable in the Kaliningrad Region. Crossing the Polish-Russian border under the local border traffic regime is available at the following crossing points: Bezledy - Bagrationowsk (road); Gołdap - Gusiew (road); Grzechotki - Mamonowo II (road); Gronowo - Mamonowo (road); Braniewo - Mamonowo (railway).

3.5. Integration

As far as the integration of third country nationals is concerned through their increased socio-economic contribution, a significant meaning had a strategic document entitled "*Migration Policy of Poland – the Current State of Play and Further Actions*" adopted by the Council of Ministers on 31 July 2012, as well as a bill on foreigners of 18 October 2012 that to a large degree introduces recommendations included in the document. The bill provides for, among others, that a foreigner applying for a residence permit will be obligated to proof his knowledge of Polish, which will contribute to his better integration into Polish society. A foreigner is obligated to proof his knowledge of Polish at A2 level at the least, confirmed by an official certificate mentioned in art. 11a of the *Act of 7 October 1999 on the Polish Language*,⁴⁵ certificate of completing a school on the territory of the Republic of Poland or a certificate of completing a school abroad with the Polish language as the language of instruction. Minors born on the territory of the Republic of Poland

and minors under 16 will be exempted from this duty.

The adoption of the strategic document entitled "*Migration Policy of Poland – the Current State of Play and Further Actions*" by the Council of Ministers on 31 July 2012 has developed the need to ensure the consistency of provisions of all long- and short-term governmental strategies. In course of the year, consultative activities were carried out with respect to such documents as: *The Strategy of the Development of Human Capital*, *The Project of the Strategy of the Development of Social Capital* and *Long-term Policy of the National Development Strategy - Poland 2030*.

At the same time, a working group for the integration of foreigners continued its works at the Interministerial Migration Group that in 2012 held 10 meetings. The main subject of the meetings was the development of basic assumptions and solutions of the integration policy in Poland. It was agreed that international and non-governmental organisations operating in the field of integration would be involved at each stage of works on the assumptions of integration policy. The basis for determining the assumptions to above-mentioned policy was, among others, the inclusion of a questionnaire on the shape of future integration policy that was distributed to non-governmental and international organisations, government, and local authorities and scientific & research institutions.⁴⁶ Another element that provided the basis for the works of a working party was the implementation of the European Fund for the Integration of Third-Country Nationals in Poland, the organisation's experience gathered in the execution of projects, and the fund evaluation. During debates of the

45. Journal of Laws of 1999 No. 90, item 999 as amended.

46. A questionnaire was prepared by a working party for foreigners' integration at the Interdepartmental Migration Group based on the document "*Migration policy of Poland – the Current State of Play and the Further Actions*".

working party, the following matters were discussed: access to housing in the context of forced migrants, pre-integration and transition from pre-integration to integration, employment in the context of forced and spontaneous migrants, assumptions and system solutions in the context of spontaneous migrants, actions addressed to receiving society targeted at building intercultural dialogue, monitoring and assessment of integration activities, language education, cultural orientation and children education in the context of forced migrants.

In order to support more effective integration of foreigners in 2012 the Ministry of Labour and Social Policy conducted a research and information project “Development of comprehensive and sustainable support mechanisms for legal and civic consultancy services in Poland” whose purpose is to develop (until mid-2014) a model for the provision of legal and civic consultancy services addressed to Poles and specific groups of migrants in Poland, as well as a set of rules and directions of state policy aimed at strengthening and developing this type of consultancy services in Poland. The first stage of the project will involve the collection of information on the legal and civic consultancy services in Poland and in other countries which will serve as a basis for developing a model solution for the functioning of the consultancy system in Poland (including rules of operation, cooperation, financing, evaluation and self-assessment) and designing a single state policy in this regard. The final stage of the project will include a large scale information campaign on developed solutions which will be addressed to both stakeholders (decision-makers, beneficiaries of aid, consulting institutions) and potential recipients of services.

In July 2012, the implementation of the project entitled “Migrants’ rights in action” which is co-financed by the European Fund for the Integration of third-country nationals began. The aim of the project is

to provide assistance to all migrant staying in Poland who are in a difficult situation. The information campaign includes also an information portal for migrants www.migrant.info.pl where information on entry to and stay in Poland, possibility to take up employment and the phenomenon of trafficking in human beings are available. The portal also present information on i.a. the cost of living in Poland (e.g. prices of basic food products). The website is available in Polish, English, French, Russian, Ukrainian and Vietnamese. A version in Armenian will be launched soon.

In 2012 the work began in the Opolskie Voivodeship on the project Integration without borders implemented by the Academy of Management and Administration in Opole. The project is co-financed by the European Fund for the Integration of Third-country Nationals and its main purpose is to deepen and facilitate integration between third-country nationals and the Polish society and to build the platform for intercultural dialogue. The project includes Polish language courses and civics education for nationals of non-EU countries, in the form of six-month trainings. The project is addressed to foreigners who are not EU citizens but meet the conditions for entry to and stay in the territory of Poland, in particular those who have a prospect for residing in Poland for at least 12 months and are holders of i.a. visa for the purpose of repatriation, visa for the purpose of re-settling as a repatriate’s closest family member, a visa for the purpose of using the rights stemming from the Card of the Pole.

On the European Union forum, representatives of the Ministry of Labour and Social Policy participated in the National Contact Points on Integration at the European Commission. The works of the group in 2012 focused mainly on the project connected with the development of common indicators of the integration of foreigners that would be used by European Union

Member-States in order to evaluate and improve national integration policies and compare progress in the integration policy among the states.

An important action from this point of view is Poland's participation in the project entitled "Integration of Refugees – Access and Evaluation" that is run by a UNHCR Regional Office in Budapest.⁴⁷ The project includes four countries of the region (Bulgaria, Poland, Romania, and Slovakia) and its objective is to create Integration Evaluation

The main subject of the the working group for integration of foreigners' meetings was the elaboration of basic assumptions of the integration policy in Poland

Tool to gather information, identify potential gaps and measure progress in the field of integration of individuals covered by international protection. The development of mechanisms for effective and regular collection of statistical data referring to issues relating to the integration of individuals covered by international protection is essential for the project. The project focuses on four aspects concerning the integration: accommodation, education, employment, and family reunification.

Similarly to former years, in 2012 IOM office in Warsaw continued its works on the development of the system of communication and integration of information in the field of consolidating the process of integration of foreigners in Poland imple-

mented, among others, by the National Cooperation Platform among organisations associating immigrants and Polish institutions. The Platform serves as a forum for communication and exchange of information and experiences among participating institutions. In 2011, the Platform also played a role of a consultative mechanism of bills on migration prepared by the state authorities in the field of migration. During subsequent Platform meetings, matters relating to, among others, a document creating Poland's migration policy, assumptions to the bill on foreigners and bill on legalising irregular stay of foreigners in Poland were discussed. Since 2010, the bill has been implemented by the International Organisation for Migration in cooperation with the Ministry of the Interior and co-financed from the European Fund for the Integration of the Third-Country Nationals.

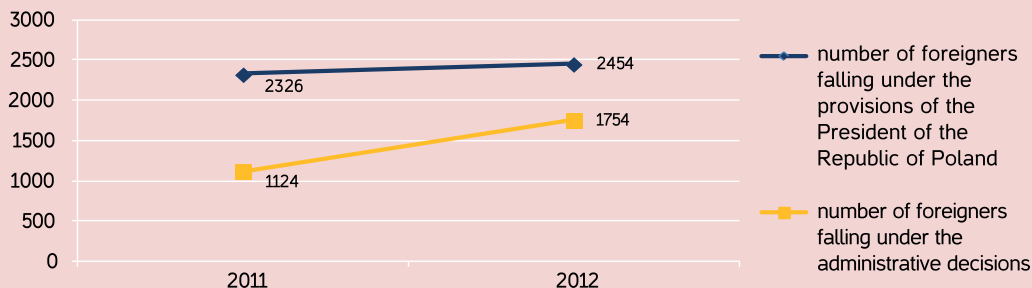
3.6. Citizenship and naturalization

In 2012, the *Act of 2 April 2009 on Polish Citizenship*⁴⁸ came into force. On 15 May

48. Journal of Laws of 2012, item 161. *The Act of 14 April 2009 on the Polish citizenship* was appealed in 2009 to the Constitutional Tribunal by the then President of the Republic of Poland as an unconstitutional Act. Changes concerning the institution of recognising as a Polish national were an object of appeal lodged to the Constitutional Tribunal raising doubts as far as the compliance of the provisions of the new Act with the Constitution are concerned and first of all, with the conviction that granting the Polish citizenship by the President of the Republic of Poland is a basic procedure of acquiring the nationality whereas the institution of recognition in a form proposed by the Act leads to the erosion of the prerogative of the President and diminishes its actual, practical meaning. Ultimately, the Constitutional Tribunal adjudicated that granting the citizenship and recognition as a national are two ways of acquiring the Polish nationality that differ considerably and are not competitive to each other. As the Tribunal highlights, the new Act on citizenship is an expression of "open vision of the Polish citizenship". According to the Constitutional Tribunal: "(...) The Act of 1962, in spite of frequent amendments does not respond to a number of contemporary challenges such as: numerous migrations, multiple nationality, frequent marriages of Polish nationals with foreigners (...), and at the same time, the Act does not resolve many "backlogs of history", for instance, an issue of nationality of Polish people, who lost it irrespective of their will".

47. In Poland, it is coordinated by the UNHCR National Office in Warsaw.

Chart 2. Number of foreigners to whom a decision of granting Polish citizenship was issued between 2011-2012, by the type of decision



Source: Ministry of the Interior

2012, based on the provisions of Chapter 5 of the above-mentioned Act, provisions that govern material conditions and the procedure in the cases for the restoration of Polish citizenship came into force and on 15 August 2012 – all the remaining provisions of the new Act.⁴⁹ The new Act provides for four ways of acquiring the Polish citizenship, i.e.: by virtue of law,⁵⁰ by granting Polish citizenship, by recognition as a citizen of Poland and by restoring the Polish citizenship.

With regard to the previous Act, two material changes have been introduced. On one side, an existing category by recognition as a citizen of Poland has been significantly modified and a condition of acquiring the Polish citizenship by a Polish foreigner after prior renouncing of a previous foreign citizenship has been abandoned. Currently a new category of restoring the Polish citizenship has been introduced. Under the

institution of restoring the Polish citizenship introduced by a new Act, from 15 May to 31 December 2012, some 519 applications for restoring the Polish citizenship were filed to the Ministry of the Interior⁵¹ with the marked majority of them filed through Polish consular posts (mainly in Koln, Malmö, Berlin, Stockholm and in Munich). Under the new procedure, the Polish citizenship has been restored to 398 individuals.

As of 15 August 2012, a new procedure of granting the Polish citizenship by the President of the Republic of Poland has come into force (the President of the Republic of Poland may grant the Polish citizenship to each foreigner at his/her request without the need to fulfil any condition as no conditions limit the constitutional authority of the President of the Republic of Poland to grant consent for renouncing the Polish citizenship (the procedure relating to the loss of the Polish citizenship applies) as well as an administrative procedure of the recognition for a Polish citizen.⁵² The data collected in the central register of acquiring and losing the Polish citizenship show that in 2012 some 3 207 applications that encompassed 3 608 foreigners (including

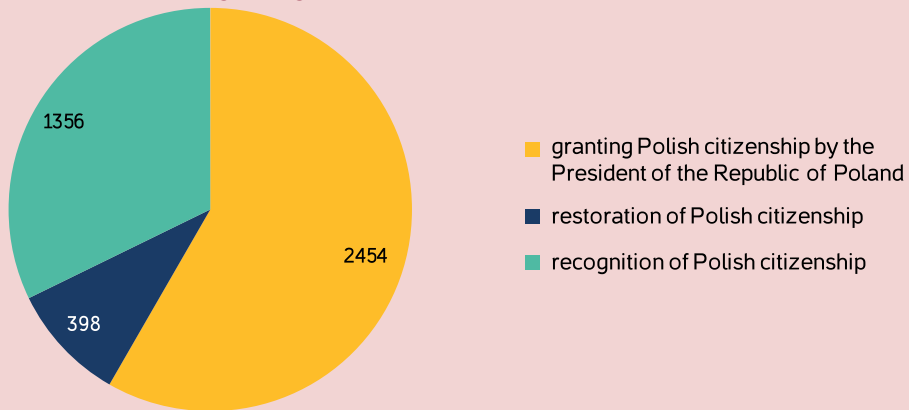
49. Brief analysis of changes to the Act on the Polish citizenship is presented on the website http://www.emn.gov.pl/portal/esm/704/10185/Analiza_zmian_dotyczacych_zasad_nabywania_obywatelstwa_polskiego.html.

50. The Polish citizenship is acquired by virtue of law traditionally first of all by birth but also by being found in the territory of the Republic of Poland if parents are unknown or by adoption. The citizenship by birth is acquired when the child was born in Poland and his parents are unknown, stateless or their nationality is undefined. An option of acquiring the Polish nationality in result of adoption is a totally new solution. It applies to a minor foreigner adopted by a person or persons holding Polish citizenship if the full adoption took place before the age of 16.

51. Decisions on the issue are made by the Minister of the Interior and applications are filed through Polish Consular Offices (persons living abroad) or directly to the Minister of the Interior (persons living in Poland).

52. The Voivode is the 1st instance body and the Minister of the Interior the 2nd instance body.

Chart 3. Number of foreigners granted Polish citizenships in 2012



Source: Ministry of the Interior

minors) for granting the Polish citizenship were filed. The President of the Republic of Poland granted the Polish citizenship to 2 454 foreigners.

The new Act regulates the matter of granting the Polish citizenship by recognition in a different way than previously applicable regulations, extending the power of a voivode in this respect. Solutions adopted in the Act increase the number of foreigners that may apply for the Polish citizenship, following this procedure and ensure standard treatment of foreigners applying for granting the Polish citizenship, eliminating an element of recognition in these procedures. Persons, who can apply for Polish citizenship through the recognition of citizenship, are foreigners living on the territory of Poland pursuant to applicable permissions, who, in the course their lasting many years residence have become integrated into Polish society, have command of the Polish language, have source of income and a dwelling place, respect the Polish legal order and do not pose a threat to national defence or security. This also applies to individuals living in Poland under specific permits, refugees, stateless persons, children, and spouses of Polish citizens and persons of Polish origin. For the first time, officially confirmed command of the Polish language, mentioned in art.

11a of the *Act on the Polish Language of 7 October 1999* is a condition of acquiring the Polish citizenship. The language command must be confirmed under an official certificate obtained after passing the State examination, a school - leaving certificate in the Republic of Poland or school-leaving certificate obtained from a school abroad with the Polish language of instruction (except minors, whose at least one parent is a holder of the Polish citizenship). After 15 August 2012, some 612 foreigners filed applications for the recognition as a Polish citizen. Voivodes recognised 398 individuals as Polish citizens. At the same time, pursuant to the above-mentioned provision of art. 66 of the Act, bodies of public administration (voivodes and consuls) make decisions on granting the Polish citizenship based under applicable provisions of the *Act of 1962 on the Polish citizenship*. In 2012, (without restoring the Polish citizenship) the Polish citizenship was granted to 1 356 foreigners⁵³ based on an administrative procedure under the provisions of the Act of 1962 and of the Act of 2009.

In 2012, activities connected with the verification of the citizenship-related bill on the repatriation to the Republic of Poland

53. In 2012, the President of the Republic of Poland granted his consent for renouncing the Polish citizenship to 315 persons.

by persons of Polish origin that were deported and exiled to the former Soviet Union. Interdepartmental arrangements that are in progress have not caused the elimination of all discrepancies and ultimate joint position of public administration has not been elaborated. One of the proposals of the department of the interior on the matter was to introduce to the Polish legal system a universal definition of the Polish origin, which would fulfil a constitutional norm included in art. 52 clause 5 of the *Constitution of the Republic of Poland* according to which “anyone whose Polish origin has been confirmed in accordance with statute may settle permanently in Poland.” Since the Polish origin is a fact, it has been reasonable to standardise the procedure of acknowledging the Polish origin for the purpose of issuing the residence cards or a repatriation visa. Another proposed change applies to the way of financing municipalities involved in the repatriation action by providing in this respect financial aid from the state budget to all municipalities inviting return expatriates and to change the very form of financing from the present dedicated fund to the payment, from which local authorities could execute their own tasks. Under the proposed changes, also a proposal of extending the applicable support system for return expatriates including a partial reimbursement of travelling costs, installation and current maintenance allowance, education allowances, partial reimbursement of repairs and fit out costs of the dwelling, vocational activation by additional financial benefits for return migrants, who participate in language courses and vocational training on voluntary basis and on their own initiative, not provided for under the Act would be included. Such form of assistance would provide an incentive for inviting local authorities and would motivate the return migrants themselves to learn Polish and enhance their vocational qualifications required for ensuring source of income.

In 2012, some 110 proofs of the Polish

citizenship acquired under the procedure of return migration were issued pursuant to art. 4 of the *Act of 9 November 2000 on repatriation* (“a person coming to the Republic of Poland under entry visa as a return migrant acquires the Polish citizenship by virtue of law upon crossing the border of the Republic of Poland”) and 13 individuals were recognised as return migrants in accordance with the procedure stipulated in art. 16 of the Act. Among return migrants are usually persons from Kazakhstan and Russia.

3.7. Managing migration and mobility

3.7.1. Visa policy

Activities in the field of developing effective system of managing migrations and visa policy in 2012 again focused on the execution of provisions included in the strategic document entitled “*Migration Policy of Poland – the Current State of Play and the Further Actions*” adopted by the Council of Ministers on 31 July 2012. Works on preparing the time programme of execution of adopted in the strategic document recommendations were carried out and on 15 January 2013, organisation assumptions of the Party for handling tasks of the Ministry of Foreign Affairs relating to the preparation of a plan and implementation of recommendations in the above-mentioned document were adopted. The first kick-off meeting of an expert group was organised on 18 December 2012. Objectives of the Polish visa policy are also analysed on various European Union Council fora and during working contacts with other European Union Member-States.

The Republic of Poland has signed visa representation agreements with the following states: Slovenia (from 2008), Slovakia, Sweden (from 2010), Holland (from 2010) and Estonia (from 2010). Talks concerning the representation with other Schen-

gen Area states are in progress. The cooperation with Slovakia in the field of visa representation in Poland in such states as Armenia (Yerevan) and Russia (Kaliningrad Region, although suspended for an indefinite period) was finalised by signing an agreement on the above-mentioned matter on 10 February 2012.

As far as the implementation of 2012 visa information system is concerned, it should be noted that the works on launching the system in subsequent regions are follow-

As of 15 September 2012, nationals of Ukraine are no longer obliged to pay fees for national visas

ing on schedule. Launching took place in Libya on 29 February 2012 (I region), Israel, Jordan, Lebanon and Syria on 10 May 2012 (II region) and Afghanistan, Saudi Arabia, Iraq, Iran, Qatar and Kuwait on 2 November 2012 (III region). From 26 October 2011, pilot activities were carried out in Azerbaijan, Malaysia and Armenia. No delays were noted in introducing a duty of gathering biometric data and the transfer of the same to visa information system in the first three regions.⁵⁴

At the same time, on 15 September 2012, an *Agreement between the Government of the Republic of Poland and the Council of Ministers of Ukraine*, ratified on 6 June

2012, on the abolition of fees for national visas came into force. In connection with the provisions thereof, Ukraine nationals are not obliged to pay fees for national visas that apply to stays lasting over three months and less than one year (D type visa).⁵⁵ Both parties signed the above agreement on 13 June 2012.

Another important activity to mention was the execution of the project “Strengthening of Ukraine Administrative Capacities in Effective Cooperation with the European Union in Migratory Matters. Legal and Practical Aspects of Inter and Intra-corporate Cooperation”. The project was developed in connection with the fulfilment of obligations by Ukraine resulting from the “Ukraine Visa Liberalisation Action Plan” concerning the creation of standard database of migration management with consideration given to introducing biometric documents and development of biometric verification system and person identification.

3.7.2. Schengen governance

Poland does not participate in the works of common centres of receiving visa applications (Common Visas Application Centres - CVAC, i.e. the so-called Schengen Houses) focusing its attention on the cooperation with outsourcing companies. However, opening of similar centres in future, if the need arises and appropriate conditions emerge, is not precluded. Currently, Polish Visa Application Centres (the so-called VAC) operate in Ukraine, Turkey, Russia, and Kaliningrad Region.

Polish consuls also actively participate at meetings under the Local Schengen Cooperation with a group of representatives of other European Union Member-States and European External Action Service

54. According to information from the Ministry of Foreign Affairs, in 2012, installations of facilities and software were made in Polish Embassies in Tel Aviv, Amman, Beirut, Damask (II region) and in Kabul, Riyadh, Bagdad, Teheran, Doha, Kuwait, Abu Dhabi (III region).

55. Detailed information concerning new solutions in visa regime between Poland and Ukraine are available on the website: http://www.emn.gov.pl/portal/esm/704/9319/Polska_znosi_oplaty_za_wydawanie_wiz_krajowych_obywatelom_Ukrainy.html.

(EEAS). They set up a forum of information exchange and standardisation of visa procedures.

In this context, on a national forum in 2012, works analysing an option of introducing significant system modifications in currently used model of carrying out visa consultations in Poland and abroad were underway. It should be noted that the visa consultative system in Poland is not limited to VISION consultations, that is, to the exchange of communications concerning consultations with the Schengen Member-States since carrying out consultations with national consultative bodies is an important element of visa consultations. Consultations of Schengen and national visas carried out in Poland (with national consultative institutions) through the Head of the Office for Foreigners are another important element of the visa consultation system in Poland. Polish consuls have initiated the above controls.

In 2012, utmost attention was paid to the implementation of the second component of the Eastern Partnership Integrated Border Management - Flagship Initiative,⁵⁶ under which the Polish Border Guard undertook a matter devoted to the Integrated Border Management System and international cooperation concerning best European practices in the field of common border control.

3.7.3 Border monitoring

Important elements of monitoring a situation and of activities taken up by the Polish Border Guard targeted at ensuring safety and improvement of state border control in 2012 follow below:

- Taking a decision on introducing from 4 June 2012 to 1 July 2012 temporary restoration of border controls at inter-

national borders (*Regulation of the Ministry of the Interior of 17 May 2012 on temporary restoration of border checks of persons crossing the state border constituting internal border*, Journal of Laws of 22 May 2012, item 566). The above took place in connection with hosting the UEFA EURO 2012, European Football Championship, by Poland and Ukraine. As an outcome of this decision, the Polish Border Guard developed a plan of temporary restoration of the border checks of individuals crossing the Poland's internal border and framework guidelines supplementing the plan).

- Opening, during the UEFA EURO 2012, European Football Championship, the so-called EURO lanes for fans and participants of the event based on the "green corridors" concept operating at Korczów crossing point and at other crossing points for travellers that have "nothing to declare". The main purpose of "EURO lanes" was to improve the border checks at the border with Ukraine.
- Ensuring border traffic flow and security of "Green Border" at the external border of the European Union, specifically with Ukraine by optimising the system of border checks and reinforcement of staff.⁵⁷

56. This component, i.e. Eastern Partnership - IBM FIT (Flagship Initiative), is implemented by ICMPPD.

57. An integral part of strengthening the staff at border crossing points is properly trained staff. To this end, the Border Guard independently or in cooperation with other institutions (department of the interior, Office for Foreigners, voivodes, Police, the National Labour Inspectorate, department of labour and social policy) organises cyclical training of the Border Guard officers and other employees of the listed services and public institutions. Themes of training include such issues as: the development of manual of best practices in the area of: Migration Identification and Maps for Foreigners, Verification of Authenticity of Public Documents Issued to Foreigners, Migration Identification Including Border Identification, Administrative Procedure Relating to the Expulsion of Foreigners from the Territory of the Republic of Poland Carried out by the Border Guard Officers and Other Institutions, Basic Knowledge in the Area of Administrative Procedure Relating to the Expulsion of Foreigners from the Territory of the Republic

- Exercising control under substantive surveillance of the Border Guard relating to the manner of execution of official tasks at selected border crossing points providing the basis for working out recommendations/guidelines in order to improve the processes of border control and ensure appropriate level of external border security (including e.g. appropriate traffic separation at air border crossing points).
- Including the Border Guard into cooperation under the OSCE⁵⁸ Network of National Contact Points for Border Security and Management.

The above record shows that a number of activities connected with monitoring of a situation at state border related to the organisation of the UEFA EURO 2012, European Football Championship by Poland and Ukraine from 4 June 2012 to 1 July 2012. Apart from the listed activities, for the time of the EURO 2012, Border Guard officers were posted from the training centres to perform tasks at the state border in order to ensure security of communication routes. More Border Guard officers were also posted to be on duty at the contact point at the Police Headquarters in Legionowo.

In order to improve better coordina-

of Poland, Basic for the Verification of Foreigners' Documents in Terms of their Authenticity and the Methods of Determining the Identity, Shaping and Perfection of Intercultural Competencies, Socio-Cultural Identification of Human Trafficking, Socio-Cultural Identification of Foreigners from Particular Regions of Migrants' Origin, Strategies of Communicating with Foreigners and Workshop in Control of Legality of Employment in the territory of the Republic of Poland, and many others. These trainings are mainly prepared by three large training Border Guard centres, i.e. the Main Centre for the Border Guard Training in Koszalin (<http://www.cos.strazgraniczna.pl>), the Centre for the Border Guard Training in Kętrzyn (<http://www.cs.strazgraniczna.pl>) and the Specialist Training Centre for Border Guard in Luban (<http://www.oss.strazgraniczna.pl>).

58. The Border Guard participated in NPK network in Vienna (October 30-31, 2012) that was partially dedicated to challenges in the area of migration, deportation, and readmission.

tion of particular types of border control and to increase the capacity of border crossing points in Gronowo-Mamonowo, Kuźnica, Bobrowniki, Terespol, Hrebenne, Krościenko and Dorohusk, LED screens were installed to direct travellers to proper traffic lanes.

At the same time, the Border Guard undertakes a number of activities targeted at the improvement of procedures relating to border checks. One of them is introducing ONE STOP technologies at the border crossing points at the entry directions consisting in exercising the border control and customs clearance of persons and vehicles crossing the border by performing one stop. To other mechanisms operating in the majority of road crossing points at the entry direction belong the so-called "green lanes" for travellers that have nothing to declare. Border checks are exercised at these crossing points in full while customs clearance is made at random risk-based analysis. A concept of "green corridors" is based on traffic organisation when a traveller selects the "nothing to declare" lane on his/her entry on the neighbouring side without an option of changing the lane until the conclusion of customs clearance on the Polish side.⁵⁹ These activities are carried out in agreement with the Customs.

The above-described procedures of border checks did not weaken the security of borders. The very fact of intensification of activities at the border (among others increasing the staff, more patrols at the "green" border, and support by the military gendarmerie during UEFA EURO 2012, European Football Championship) was ori-

59. As of 17 December 2012, officers of Bieszczadzki Border Guard Division and Customs have been implementing FORECASTER pilot project at the border crossing point in Korczowo targeted at increasing the capacity of border crossing points. New solutions will be applied for two lanes of border check as to the so-called "green corridor". Persons selecting this lane for crossing the border declare that they have no goods subject to customs declaration while the customs check is based on random risk analysis.



ented at prevention. A considerable drop of activity among small smugglers, the so-called “ants”, and individuals involved in criminal border activities on a larger scale was noted. To meet the requirements related to the above-mentioned event information leaflets in Polish, Russian, English, and German were prepared.

3.7.4. Frontex Agency

In case of Poland, the Polish Border Guard is a competent institution to execute tasks in cooperation with Frontex Agency relating to the management and monitoring of migration flows through a section of European Union external border, being also a Poland’s state border.

In connection with the UEFA EURO 2012, European Football Championship, a joint EURO CUP 2012 operation was designed. The operation was performed from 3 June to 3 July 2012 and was coordinated by the Frontex Agency. Its main objective was to reinforce security measures at the borders during the European Football Championship through the execution of joint missions in close cooperation of the Frontex Agency with Poland and Ukraine. Border guard officers from other EU Member-States and observers from third countries also provided a support in the protection of external borders under the operation. In the operation participated 106 officers of Border Guards from 24 European Union Member-States as foreign support forces and 8 officers as observers.

Within the framework of Frontex cooperation with third countries, the Border Guard took part in the Project Coordination Points 2012, whose objective is to create additional ring of points at the external EU border with respect to Focal Points, providing anticipative information for analysis of risk and threats. The project implementation consists in receiving observers from third countries in Focal Points established at the Member-States external borders and

then supporting them by Member-States officers posted to serve in their countries in conducting Coordination Points being equivalents of Focal Points. An exchange of experience and knowledge sharing and observations concerning work at the crossing points⁶⁰ make an additional objective of the programme.

Moreover, in 2012 the Border Guard participated in several activities coordinated by the Frontex Agency:

- **POSEIDON Programme Joint Operation POSEIDON 2011 – Extension and 2012 and POSEIDON 2011 – Extension and 2012 Land and Sea Borders** aimed at protecting the Greek-Turkish and Bulgarian-Turkish borders against the illegal flow of immigrants. In land operations, consisting mainly patrolling the border attended several (64) Border Guards.⁶¹ The maritime component of the program was attended by six officers being supported during the border control.
- **Joint Operation AENEAS 2011 – Extension** aimed at limiting the inflow of illegal migrants from southern and eastern coasts of the Mediterranean Sea, Asia and the Middle East. A Border Guard airplane with crew (1 month) participated in the operation by way of conducting patrol flights.
- **Joint Operation HERMES 2012** aimed at limiting the inflow of illegal migrants to Italy mainly from Tunisia and Libya. A Border Guard airplane with crew

60. In 2012, two observers from Ukraine and Moldova arrived at the Focal Point in Korczowo (for three months) and an officer from the Border Guard Division in Korczowo was one month in Moldova.

61. Including 40 mobile surveillance unit operators, 12 helicopter crew members, 6 members of mobile support teams, 6 members of thermal imaging camera patrols). Additionally Border Guard was equipped in 1 mobile surveillance unit for 10 months, 1 patrol vehicle for 3 months, 1 thermal imaging camera for 6 months, 1 helicopter for 1 month.

(1 month) participated in the operation by way of conducting patrol flights.

- **Joint Operation NEPTUNE 2012** whose aim is the protection of the external border of the EU against the inflow of illegal migrants from Eastern Balkans and Middle East.⁶² Two officers of the Border Guard participated in the operation on the Slovenian-Croatian border (border traffic control).
- **Joint Operation FOCAL POINTS Land Borders 2011 – Extension and JO FOCAL POINTS Land Borders 2012** – the following participated in operations in focal points: 4 Border Guard officers on Hungarian-Serbian border, 1 on Hungarian-Croatian border, 1 on Slovenian-Croatian border and 1 on Greek-Albanian border.
- **Joint Operation FOCAL POINTS ABS 2011 Extension** – the aim of the project is to coordinate in the best manner possible the joint undertakings on land and air borders, to increase efforts aimed at protecting external EU borders, as well as to develop standard procedures for the performance of joint operations. Operational method: permanent or ad hoc presence of seconded officers from Member States and systematic reporting during the whole operation. The Border Guard was engaged in 2012 in the coordination of operations in the part concerning projects only on air borders.
- **ATTICA 2012 Project** (the Greek-Turkish and Bulgarian-Turkish border, like above), under which 4 officers were seconded for 1-month screening specialist missions (interviews with foreigners who crossed or attempted to cross the border against the law, aimed at identifying their nationality).

62. Actions were conducted on the Slovenian-Croatian, Hungarian-Serbian, Romanian-Bulgarian-Serbian, Greek-Albanian borders.

4

Irregular Migration and Return



4.1. Irregular migration

Poland's migration situation in the area of illegal migration in 2012 basically did not change despite a number of events that could have impact on the size of the above-mentioned phenomenon (e.g. hosting the UEFA EURO 2012, European Football Championship with Ukraine or the change of approach of Belarus authorities to the problem of control of the migration flows, discussed in more detail in a further part of the chapter). The Polish Border Guard, that is, a body responsible for activities in the field of preventing irregular migration onto the territory of the Republic of Poland identified eight main threats in the field of irregular migration in 2012. Below follow the observations of the Border Guard:

1) **Violation of the rules of entry onto the Polish territory** - incidents of illegal migration disclosed by the Polish Border Guard in 2012 show that the majority of them was organised and took place with the involvement of a third party including organised crime. Increased activity of crime groups organising transfer of people was specifically observed at the Polish-Belarusn border section. These groups reacted to the change of the situation in a very dynamic way and to the opportunities of a transfer with the use of the above-mentioned channel, which was an outcome of extending

European Union sanctions imposed on Belarus in the middle of 2012. Eventually, Belarus Border Guard has changed the priorities in the field of border security with the EU countries, i.e. it concentrated on the control of entry to Belarus admitting practically the lack of control at the exit direction. Such situation was considered as extraordinary. It had significant influence on the intensification and occurrence of new phenomena noted at the Polish and Belarusian border as far as illegal entries through the state border at the so-called "green" sections of the border were concerned. This section was characterised by the highest increase of indicators' dynamics profiling migratory pressure and high level of threat of illegal migration comparing with other sections of the border of the Republic of Poland. The most frequent perpetrators of illegal entries onto the Polish territory were nationals from Afghanistan, Vietnam, Russia, and Georgia.

2) **Abuse of the abolition procedure**⁶³ - a third party was involved in using the provisions of the act enabling the legalisation of stay of foreigners with unregulated status in Poland. It also included Polish nationals offering intermediation at particular stages of the regularisation procedure or providing documents to authenticate the stay of individuals

63. More details provided thereafter.

in the Polish territory within the deadline required by the *Act of 28 July 2011 on the legalisation of stay of some foreigners on the territory of the Republic of Poland and on amendments of the Act on granting protection for foreigners on the territory of the Republic of Poland and the Act on foreigners* (patients' records and other medical documents). Modus operandi, including the so-called "abolition tourism" of foreigners consisted in an attempt to mislead officials verifying applications for residence permit for the time determined in the abolition procedure by providing false information on long uninterrupted stay on the territory of the Republic of Poland.⁶⁴

- 3) **Visa abuse** - in 2012, the Border Guard recorded the practice of using visas by third-country nationals for the purpose different from the declared. It was still one of the main threats for the Polish border security system. Most of incidents of this kind were recorded in connection with nationals from Ukraine, Belarus, and to a lesser degree, from Georgia, Russia, Uzbekistan, Moldavia, Mongolia, Kirgizstan, India, and Iraq.

Cases disclosed by the Polish Border Guard mainly concerned visas issued at Polish diplomatic posts in Lvov, Łuck, Winnica, Minsk, Charkow, Grodno, Kiev, Odessa and Brest, for the purpose of employment (especially national visas of "D05" category), carrying out business activity, visits, carrying out cultural activity or participation in conferences and for tourism.

Visa swindling was usually practiced with the use of a system of intermediaries (among others, with an aid of per-

sons connected with Polish business entities, intermediate companies offering employment to foreigners – especially companies from Ukraine, tourism agencies, organised crime) and was often connected with the so-called visa shopping.

- 4) **Abuse of procedures connected with granting the refugee status** - international protection institution in a form of right to apply for the refugee status was abused for the purpose of legalising the stay in Poland. It should be highlighted however, that in most cases, persons applying for the refugee status treated their stay in Poland as temporary on their way to other EU Member-States guaranteeing them, among others, access to better social benefits and having large migration Diasporas.

A phenomenon of abusing refugee procedure in Poland mainly applied to Russian nationals from Chechnya and Georgia, who filed applications for granting the refugee status only to obtain the right of entry to Poland and then attempted to enter other EU Member-States illegally.

- 5) **Risk of forgery of travel and residence documents** - in 2012, incidents of using forged documents in the procedure of illegal migration, whose high protection level often required advanced and costly technologies in the forgery process involving, organised crime. Attempts of entry onto the Polish territory based on forged documents were mainly recorded at the border with Ukraine and at the air border. It should be noted that the number of such incidents recorded at Warszawa-Okęcie airport has increased specifically among nationals from Syria.
- 6) **Risk of abuses in foreigners' employment on the territory of the Republic of Poland** - high risk of illegal migration

64. According to information provided by the Border Guard, foreigners usually did not know basic Polish expressions. Neither they were able to pronounce the domicile nor could they answer any questions posed by officers. They could communicate in Spanish, French, English, and Italian.

under the pretence of taking up employment on the territory of the Republic of Poland and of illegal employment has been noted. The scale of abuses in this area in the past year was determined by a number of cancelled work permits. The majority of the cancelled work permits were issued to nationals from Ukraine, China (without Taiwan), Uzbekistan, Belarus, and Turkey.⁶⁵

The trade sector, activities of households as employers and manufacturing were the main economic sectors, in which the Polish Border Guard and the National Labour Inspectorate recorded abuses connected with employment-based visa swindles, undertaking illegal employment and violation of regulations relating to hiring of foreigners.

7) **Marriages of convenience** - a risk connected with marriages of convenience by third-country nationals with Polish nationals in order to legalise their stay in Poland for profit has not diminished. Such practice mainly concerned nationals from Ukraine, Yemen, Senegal, Nigeria, Egypt, Morocco, Armenia, Serbia, Bangladesh, Turkey, Tunisia, Peru, and Vietnam. It provided a hefty income for both, organisers and Polish nationals involved in the practice.

8) **Undertaking fake education** - broader opening of the educational market in Poland for students from third countries was accompanied by an increase of foreigners applying for entry onto the territory of the Republic of Poland taking advantage of procedures provided for students for other purpose than education. It should be stressed that such practice mainly concerned private universities. Disclosed incidents applied to nationals from Nigeria, China,

India, Lebanon, Russia, Turkey, Ukraine, and Belarus. Whereas the incidents of abusing visa procedure on the pretence of education recorded during border control occurred mainly among nationals from Ukraine and Belarus.

In order to reduce the occurrence of the above mentioned risks, the Border Guard, performs the following actions in favour of all foreigners from third countries:

- border control at air border crossing in the fields of “non-Schengen” and typing to control the directions of the “Schengen”,
- carrying out the legality of stay of foreigners on the territory of Poland,
- verifying legality of employment, entrusting work to foreigners and carrying out economic activity by foreigners on the territory of Poland,⁶⁶
- conducting interviews in the foreigner’s neighborhood,
- providing support to entities which conduct on the residence permit for a fixed period, to settle, the EC long-term resident residence permit.

Considering cross-border character of the organised crime connected with illegal migration, the Border Guard carries out activities on international arena in order to diminish the related risk. Cooperation in operational and investigative field between the Polish Border Guard and competent law enforcement bodies from other countries is carried out under, among others, bilateral international agreements on combating organised crime and under agreements signed by the heads of services of

65. Information available on the website of the Ministry of Labour and Social Policy (www.mpipsp.gov.pl; analyses and reports; foreigners working in Poland-statistics).

66. These operations are carried out independently and in cooperation with the National Labour Inspectorate.

particular states on operational cooperation that are precisely defined by competent bodies responsible for carrying out operational cooperation in the field of combating international crime. Such agreement, at the same time, facilitate planning and execution of joint tasks.

The above-mentioned cooperation is also executed through the network of Liaison Officers of the Border Guard and Police operating at Polish diplomatic posts abroad and through a network of Liaison Officers of law enforcement bodies of other states at diplomatic posts accredited to the territory of the Republic of Poland. This cooperation is carried out also in the field of handling on an ongoing basis the proposals concerning, among others, illegal migration, often accompanied by human trafficking as well as trafficking in narcotic drugs and psychotropic substances, goods subject to excise duty or forgery of documents (specifically checking persons and vehicles involved in the above-mentioned criminal activities). Joint activities are performed mainly by arranging meetings and exchange of information.

Based on *Council Decision 2009/371/JHA of 6 April 2009 establishing the European Police Office (Europol)* partnership cooperation with Europol⁶⁷ is carried out through the European Liaison Office located at the International Police Co-operation Bureau National Police Headquarters. Exchange of information regarding persons and organised crime groups involved in, among others, illegal migration and human trafficking, trafficking in narcotic drugs and psychotropic substances, goods subject to excise duty or forgery of documents; checking persons, vehicles and documents in national database and Europol database. Handling pro-

posals submitted via the Europol National Liaison Office takes place by:

- checks made in Europol Information System (EIS), containing detailed data regarding: committed crime; units investigating the case; personal data, aliases, sex, nationality and available DNA samples of perpetrators; institutions; recognised crime groups; vehicles having connection with criminal activity; counterfeited means of payment; payment cards; bank accounts and suspicious banking transactions; stolen electronic equipment; means of communication; detained narcotic substances and psychotropic substances and precursors; detained fire-arms and explosives;
- asking questions to Europol Member-States Liaison Officers to make checks in national database;
- operational meetings;
- participation in analytical work files.⁶⁸

The Border Guard also carries out, via Interpol National Liaison Office at the International Police Co-operation Bureau National Police Headquarters, partnership cooperation with Interpol, the object of which is mutual exchange of information mainly with third countries regarding persons and organised crime involved in illegal migration and human trafficking, trafficking in narcotic drugs and psychotropic substances, goods subject to excise duty or forgery of documents; checking per-

67. It is worthwhile to note the secondment of a Border Guard Liaison Officer to Europol (from April 2012), which is to the benefit of the development of cooperation and better coordination of the Police and Border Guard in combating organised illegal migration.

68. Participation in analytical work files facilitating access to data collected in EUROPOL database allows the Border Guard, depending on substantive and personal convergence, to participate in all joint operations and joint investigative groups run under the auspices of Europol, executed by representatives of prosecution authorities of the EU Member-States belonging to particular files. Principles of operating of the AWF files are regulated under the Council Decision 2009/936/JHA of 30 November 2009 adopting the implementing rules for Europol analysis work files - (L 325/14).

sons, vehicles and documents in national database and Interpol database.

The Border Guard participates in activities undertaken by European Union Border Assistance Mission to Moldova and Ukraine (EUBAM),⁶⁹ established in order to ensure high effectiveness and standards of actions performed by Moldavia and Ukraine Border Guards by counselling, sharing good practices, acquired experience and providing technical support in the field of harmonisation of procedures and standards of border management with those applicable in the EU. Every year, representatives of EUBAM organise border operations, whose objectives are as follows:

- develop risk analysis and use of investigative approach to planning and preparation of operational activities,
- intensify the execution and investigation activities in the field of combating border crime by improving operational activities on the land and eliminate gaps in the identification of key objectives,
- ensure inter-agency and international cooperation.

The Border Guard also participates in activities under projects run in favour of third countries that may serve legal and institutional changes in those countries in the field of migration and asylum. In 2012, national experts participated in a number of projects implemented in cooperation with TAIEX, ICMPD, and IOM, under the Polish Development Aid and in twinning projects of which the following deserve special attention:

- project launched by the European Commission “EuroMed Migration III” co-

ordinated by ICMPD, whose objective is to develop cooperation on migratory issues among South countries belonging to European Neighbourhood and Partnership Instrument South, i.e.: Algeria, Egypt, Israel, Jordan, Libya, Morocco, Palestine, Tunisia (and Syria);

- “Reinforcement of the Potential of the Border Guard of the Republic of Moldova in Terms of Public Safety and Border Management” project run under the Polish Development Aid 2012. The object of the project was to support the Moldova Border Guard through transforming it into a modern police-type formation encompassing the implementation of the organisational structure in compliance with the EU standards and to introduce assumptions of the integrated border management;
- “Strengthening of State Migration Services in Migration Management in Armenia” twinning project prepared by Swedish Work Immigration Service in cooperation with the Polish interior department and run under the Partnership to facilitate the EU-Armenia mobility. Under the project, an expert of the Border Guard performed, among others, the analysis of Armenian law in the field of combating illegal migration;
- project financed by IOM in favour of expanding the activity of Cynology Centre of the Ukraine State Border Guard by new branches connected with joint border control and combating border crime including illegal migration. The Border Guard was requested to assist in such matters as: establish the centre, set priorities, indicate the required logistic base and necessary documentation, etc.;
- project financed under Export Control and Related Border Security Assistance (EXBS) programme of the USA State Department under which the Bor-

69. EUBAM Mission was appointed at a joint request of Presidents of Moldova and Ukraine and established by the European Commission through signing the Memorandum of Understanding between the Commission and Governments of Ukraine and Moldova.

der Guard shared its knowledge and experience with the Balkan states, among others, in the field of creating risk and threat analysis according to EU standards and IBM issues;

- “Support to Implementation of EU Readmission Agreements with the Republic of Moldova, the Russian Federation and Ukraine: Facilitation of Assisted Voluntary Return and Reintegration (SIREADA)” project;
- “Support to Implementation of Readmission Agreements to Georgia Authorities” project providing assistance to Georgia authorities in carrying out returns of the Georgian nationals. The project implemented jointly by the interior department and Border Guard that participated in the evaluation of the EU-Georgia Readmission Agreement and supported the development of software aided handling of applications for readmission;
- “Prague Process Targeted Initiative – pilot project concerning illegal migration”. Beneficiaries: countries of the Eastern Partnership, Western Balkans, Russia and Turkey, whose objective is to enhance capacities of combating illegal migration of states participating in the project through the exchange of experience in the field of the process of negotiating agreements on readmission and organisation of returns (voluntary and forced).

The Border Guard specifically carried out the following activities that supported the combating of illegal migration of foreigners:

- on 31 January 2012, a meeting of representatives of selected diplomatic posts of third countries in Poland was organised at the Border Guard Headquarters (Eastern Partnership countries, such as, the Republic of Armenia, the Republic of Azerbaijan, the Republic of Belarus,

the Republic of Georgia, the Republic of Moldova, Ukraine, and the Republic of the Russian Federation, the Republic of Kazakhstan, Uzbekistan). The purpose of the visit was to discuss and sum up present cooperation and its consolidation in joint activities undertaken with diplomatic representatives in the field of verification of identities of nationals from third countries and issue documents enabling the return to the country of origin. The meeting was a perfect platform for sharing experience. Furthermore, it provided an opportunity to present new methods relating to the verification of identity of non-documented foreigners applied by Border Guard and to present applicable regulations concerning foreigners to representatives of diplomatic posts.

- on 18 January 2012, the Border Guard arranged a visit of the Rwanda’s Consul in order to perform an immigrant visa interview with a foreigner declaring a Rwandan nationality and discuss cooperation on the identification of foreigners declaring the citizenship of the Republic of Rwanda that stay at Border Guard detention centres. In result of the performed activities, the identity of a foreigner was not confirmed. During a meeting, conditions of cooperation with the Embassy of the Republic of Rwanda in Berlin were discussed with special concern given to the principles of identification of nationals from the Republic of Rwanda that are not holders ID proofs.

- Implementation of elements of the document entitled “EU Activities in the Area of Migratory Pressure – Strategic Response”

Implementation of elements of this document should be positively assessed. Most of scheduled activities have been

performed on schedule. Member-States, agencies, and other entities responsible for the implementation of activities properly identify priority areas and undertake appropriate measures regarding challenges concerning migratory pressure facing the EU. Biannual update that took place in October 2012 also showed that the implementation of activities should be continued on a large scale but it also demonstrated the progress in many areas. While evaluating the implementation of activities, it should be remembered that some of them are at an early stage of performance and some elements are beyond the control of a party responsible for the implementation, like for instance, dates of signing the negotiated agreements by third countries.

Among Poland's outstanding successes is signing in Moscow on 28 November 2012 the *Implementation Protocol between the Government of the Republic of Poland and the Government of the Russian Federation on the Mode of Executing Readmission Agreement between the European Community and the Russian Federation*. Signing the Implementation Protocol to the Readmission Agreement between the European Community and the Russian Federation was a notable achievement and a result of intensive works carried out by the Polish side.

Furthermore, on 10 January 2012 in Warsaw negotiations on the *Implementation Protocol to the Agreement signed on 18 March 2007 between the European Community and the Republic of Serbia on the readmission of illegally staying persons* were held. In March 2012, the draft implementation protocol to an agreement on readmission was delivered to Ukraine and in October to Georgia. Draft implementation protocol was also prepared for Pakistan and on 11 October 2012, an implementation

protocol to a readmission agreement between EC and Moldova was signed.

In 2012, a number of meetings on the enhancement of implementing the readmission with representatives of border, migration, and diplomatic services of third countries took place.

Under the activities relating to the implementation of elements "*Activities of EC in the Area of Migratory Pressure – Strategic Response*", strengthening of cooperation between such agencies as Frontex, EASO, and Europol and measures undertaken to ensure appropriate consistency of activities stated in the document with those included in the Operational Action Plans (OAP) should be positively assessed. Under these activities Fimathu⁷⁰ project with active involvement of the Border Guard was developed. According to experts in this institution, the implementation of activities under European Union strategic documents (as for instance "*EU Activity in the Area of Migratory Pressure – Strategic Response*") with activities undertaken under Operational Action Plans (OAP), such as Fimathu project, constitutes the added value to the comprehensive approach to the phenomenon of migratory pressure, appropriate border management and related safety in the Schengen Area.

In order to increase the capacity of the countries of origin and transit in the management of mixed migration tools, improve the cooperation and enhance the flow of information, the subject of the "migratory pressure" was included in the agenda of matters touched on during the Senior Official Meeting of the Prague Process that was held in Warsaw from 2-3 April 2012. The States present at the meeting had an opportu-

70. The above project launched in December 2011 is targeted at combating organised crime and smuggling of irregular migrants in closed space.

nity to debate on the matters of growing threat of illegal migration especially from the so-called Balkan route.

A decision of the Commander-in-chief of the Border Guard provides an option, in justified cases, to post officers to be on duty in other parts of the country. In such situations, reconnaissance is conducted to obtain information regarding threat by intensification of operational-investigative activities targeted at determining and uncover of organisers of illegal migration.

- **Regularisation of foreigners' irregular stay on the territory of the Republic of Poland**

Entry into force on 1 January 2012 of the *Act of 28 July 2011 on legalisation of stay of some foreigners on the territory of the Republic of Poland and amendments to the Act on granting protection for foreigners on the territory of the Republic of Poland and the Act on foreigners* (Journal of Laws 11.191.1133) enabled foreigners staying illegally on the territory of the Republic of Poland that comply with the requirements of the above-mentioned Act⁷¹ to legalise their stay. During the term of the above-mentioned Act, the total of 9 555 applications were filed, among which the majority of applications were filed by nationals from Vietnam and Ukraine, accounting for 22.98% and 21.08% respectively of the total of applicants in this case. A decisive major-

ity (98.4%) of applying foreigners were those persons, whose stay on the territory of the Republic of Poland had been uninterrupted since 20 December 2007 at least and whose stay in Poland as at 1 January 2012 was irregular.

Most of applications for residence permit for the time determined under the procedure of abolition were filed to the Mazowiecki Voivode and they totalled to 7 394, which accounted for 77.38% of all applications.

As at 8 February 2013, voivodes (1 instance body) issued 7 483 decisions out of which 4 415 were positive and 2 969 negative in the case of residence permit for the time determined under the procedure of abolition.⁷² It is worthwhile to note that in Śląskie and Wielkopolskie Voivodeships denial decisions issued by the 1st instance body were in majority. Some 98 negative decisions and 97 positive ones were issued and 96 negative and 69 positive respectively. In other cases, voivodes issued more positive than negative decisions.⁷³

Taking advantage of experiences of former abolition actions and of opinions that an option of filing appropriate applications was used by a small number of foreigners staying illegally in Poland, planning the abolition action in 2012, a decision was made about considerable liberalisation of conditions

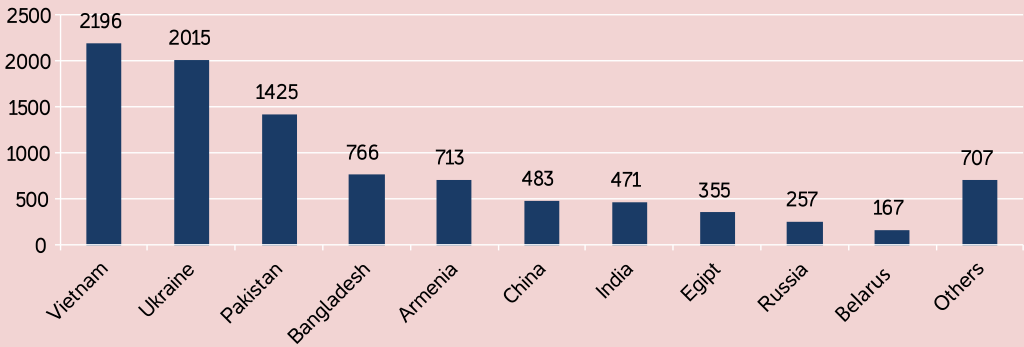
71. An option of legalising stay in Poland under the regularisation action (abolition) was available to foreigners residing in the territory of the Republic of Poland:

- continuously at least from 20 December 2007, whose stay in this territory was illegal on the date of coming the Act into force;
- continuously at least from 1 January 2010, who prior to that date had received a decision denying the refugee status including a ruling on expulsion and whose stay in Poland on the date of coming the Act into effect was illegal;
- towards whom proceedings regarding the refugee status instigated upon a successive application were in progress on 1 January 2010.

72. Regulations that allowed foreigners to legalise the unregulated stay in Poland on conditions set forth in the Act were introduced three times. The first of abolition actions were carried out in Poland from 1 September 2003 to 31 December 2003. At that time, 3 508 foreigners exercised their right to lodge applications for residence permit for the time determined in the Act. The successive abolition action lasted from 20 July 2007 to 20 January 2008 and only 2 033 applicants lodged the applications. Undoubtedly, the information action carried out in 2012 by a specially appointed for this purpose task-oriented group of the Office for Foreigners stimulated great interest in the regularisation action.

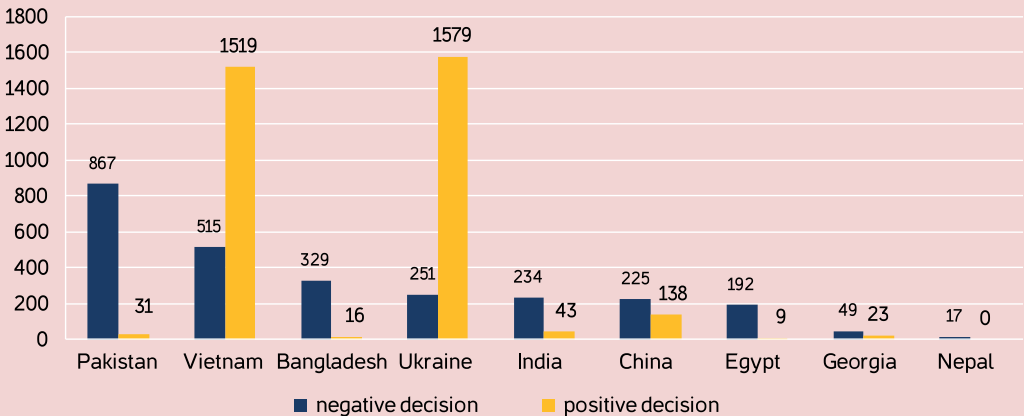
73. Pending appeal procedures may change quoted statistical data.

Chart 4. Number of foreigners applying for residence permit under the regularization programme by citizenship



Source: Office for Foreigners

Chart 5. Number of persons granted negative decisions on granting residence permit to a fixed period under regularization programme, by citizenship and number of negative decisions



Source: Border Guard

for granting the residence permit under such action and for carrying out information campaign across the country. The requirements set in former actions in 2003 and 2007/2008, concerning the legal title to the occupied dwelling and opportunity to perform work or those concerning income or a property sufficient to cover costs of living and medical costs of a foreigner and his dependants for a period of one year have been abandoned.

The above-mentioned Act provided for an option of lodging an application for residence permit under abolition proce-

dure within 6 months as of entry into force, that is, between 1 January and 2 July 2012. Such time limit according to the legislator was optimal and was to enable possibly large number of foreigners complying with the required criteria to take advantage of the regularisation action without intensification of pathological phenomena such as “abolition tourism”⁷⁴ – that is filing ap-

74. In 2012, the so-called “abolition tourism” phenomenon concerning foreigners usually staying illegally on the EU/Schengen Area, who intended to abuse or violate provisions regarding the abolition in order to legalise their stay in Poland was noted. According to estimates, some 2 000 incidents were recorded (see: <http://tvp.info/informa->

plications for residence permit under the abolition procedure by foreigners who, taking advantage of the lack of border checks at internal borders in the Schengen Area, came to Poland from other EU Member-States where they often reside permanently and without permit only to file the above-mentioned application.

The abolition action was preceded by all-Poland information campaign of the Office for Foreigners under the motto “Stay Legally - Abolition 2012”. Radio and television broadcasted advertisements encouraging to file abolition applications. Special website dedicated to the matter of abolition was launched www.abolicja.gov.pl, with all required information available in fifteen languages. Furthermore, the most important information allowing to track the procedure of applying for residence permit was also available on the website. During the abolition, hotline and information e-mail were operating. Under the action “Stay Legally - Abolition 2012” the Office for Foreigners cooperated with other entities of public administration, mainly with voivodeship offices, which also launched information points and with non-governmental organisations such as Amnesty International, Caritas Polska, The Rule of Law Institute’s Mission, The “Ocalenie” Foundation, Polish Migration Forum, Foundation of Education and Creativity, The Institute of Public Affairs, Helsinki Foundation for Human Rights, Foundation ‘Africa Another Way’, KZKO Armenian Foun-

ation, Volunteer Centre in Lublin, Ter-nopilska Foundation, The Foundation for Development “Beyond Borders”, Free Word Association, Proksenos Foundation/Weekly “Nasze słowo”, the Halina Nieć Legal Aid Centre, Foundation for Somali, Armenian Cultural Association, Association for Legal Intervention, Ukrainian Association in Poland, Socio-Cultural Association Ethnos.

- **Hosting UEFA (EURO 2012) European Football Championship**

Entrusting in 2007 two neighbouring states the organisation of European Football Championship EURO 2012 (Poland and Ukraine) was quite a challenge also due to the need of providing public safety especially in the area of control of the influx of foreigners (nationals from EU Member-States and from third countries), providing safe movement in the Polish territory and efficient use of border crossing points with Ukraine as well as providing security for the state borders (including Poland’s eastern border being at the same time external section of the EU border).

Due to possible threats of migratory character, it was decided to temporarily introduce border control of persons crossing the state border constituting EU internal border. Temporary reintroduction of control at internal border was exercised from 4 June 2012 to 1 July 2012, based on the *Regulation of the Minister of the Interior of 17 May 2012 on temporary reintroduction of border control of persons crossing the state border constituting an internal border* (Journal of Laws of 22 May 2012, item 566). An annex to the above-mentioned regulation specifies a list of places where crossing the border is permitted. Some 254 places were selected as crossing points for temporary reintroduction of border control (generally, former border crossings). At a sec-

cje/polska/45-tys-cudzoziemcow-skorzystalo-z-abolicji/9858909). “Abolition Tourism” mainly applied to nationals from Pakistan (96.55% negative decisions delivered by the 1st instance body), Egypt (95.52% negative decisions), Bangladesh (95.36% negative decisions) and India (84.48% negative decisions). It largely concerned foreigners staying illegally in the territory of France (among others, nationals from Pakistan, India, Bangladesh, and China). Existing situation caused that dactyloscopic data collected from a foreigner at lodging an application were checked in the EURODAC Central Database and not only in national database.

tion of the border with the Republic of Lithuania – 5, the Republic of Slovakia – 58, the Republic of Czech – 120, the Federal Republic of Germany – 43 and at the sea section – 9, and 19 air border-crossing points.

Preparations for temporary reintroduction of the border control at internal borders practically started at the end of 2009 and their objective was to create optimum conditions for the execution of this task by the Border Guard. On 8 June 2010, the then Minister of the Interior approved *“The Concept of temporary reintroduction of the border control at internal borders including the organisation, task assignment, and cooperation between the Chief Commander of Border Guard, Police Commander in Chief and State Fire Brigade Commander in Chief”* in order to provide appropriate conditions for effective and efficient exercising of the border control (based on mobile equipment at organised border checkpoints) while limiting costs of execution of the undertaking to a required minimum. Under the preparations for the temporary reintroduction of the border control as of September 2011, exercises in the area of temporary reintroduction of the border control were carried out. They consisted in launching mobile border checkpoints on roads in places indicated in the List of border crossings planned for temporary reintroduction of border control and exercising road control. Under the preparations, meetings with representatives of border and police services of neighbouring states were held. During these meetings, possibilities of cooperation during the EURO 2012⁷⁵ were discussed.

75. The meetings were held on 16 January 2012 and 15 March 2012 with the participation of a delegation from the FRG Centre of the Border Control, Police and Customs Cooperation in Świeck; on 29 February 2012 with a delegation from the Republic of Czech at a Joint Post in Kudowa-Ślonek; on 13 March 2012 with a delegation from the Republic of Lithuania at BG Post in Augustów; on 23 March 2012 with a delegation from the Republic of Slovakia at the

In May 2012, *“The Risk Analysis Required by the Border Guard for Tasks Related to the Temporary Reintroduction of Border Control at EU/SCHENGEN Internal Border Sections”* was prepared, whereas on 23 May 2012, the Chief Commander of the Border Guard approved the Plan of Temporary Reintroduction of Border Control at Internal Border during the UEFA EURO 2012, European Football Championship. The Plan set the framework assumptions for the execution of the temporary reintroduction of border control for particular Championship stages (i.e. group stage, quarterfinals and semi-finals).

In total, under temporary reintroduction of border control at the EU internal border, 28 980 persons were checked (foreigners accounted for 98.67% of all persons subjected to check). The purpose of the activities was to prevent and monitor foreigners coming to Poland for events connected with EURO 2012. Nevertheless, from 4 June to 1 July, 14 foreigners were detained (including eight for an attempt of crossing the border against the regulations and two for having drugs on them). Among the detainees were four nationals from Russia and four from Ukraine, one from Pakistan, one from Spain, Holland, Lithuania, and Australia and one stateless. Preventing threats concerning EURO 2012, 22 foreigners were denied entry (four from Ukraine, four from Turkey, three from Russia, three from India, two from Bangladesh, two from Kazakhstan, one from China, one from Argentina, one from Dominican and one stateless – mainly due to the lack of the required travel documents).

Moreover, the Border Guard activities

Centre of Police and Customs Cooperation in Barwinek; on 22 May 2012 with a delegation from the FRG at BPOL Inspection in Frankfurt on the Oder River; on 25 May 2012 with a delegation from the Republic of Czech in Sudecki Border Guard Division.

during the UEFA EURO 2012, European Football Championship concentrated on the following:

- » close cooperation with border services from Ukraine;⁷⁶
- » provision of smooth flow of border traffic and security of the “green border” at the external border of the European Union (i.e. Polish-Ukrainian, Polish-Russian and Polish-Belarusian borders);

The following basic measures were taken to provide maximum flow during the border checks:

- » the so-called border check and the customs in one place, consisting in checking vehicles by officers of the Border Guard and Customs and their Ukrainian counterparts in the Polish part of border crossings in Dorohusk, Hrebenn, Korczowo and Medyka (according to an agreement of the Governments of Poland and Ukraine of 31 May 2012 through the exchange of diplomatic notes);
- » launching the so-called “EURO Lanes” for fans and participants of the Tournament based on “green corridors”, existing at the border crossings in Korczowo and Dorohusk, and established in other big crossings with Ukraine for travellers having nothing to declare;
- » introducing, as of the beginning of 2011, mixed patrols consisting of Polish and Ukrainian border guards

officers⁷⁷ to the state border protection system (under the Agreement on joint patrols);

- » opening, during EURO 2012, temporary road crossing-points Dołhobyczów-Uhrynów (resulting from the concept of operating the Polish-Ukrainian border during EURO 2012), dedicated mainly to the Local Border Traffic, which relieved main border crossings in this category of the border traffic.
- » receive foreign support forces, mainly in an organised form with FRONTEX Agency at external borders, “EURO CUP 2012” Joint Operation, and joint performance of tasks with Military Gendarmerie soldiers.

4.2. Return

Return policy is commonly perceived as an important tool in combating illegal migrations, limiting the undesirable situation, such as irregular stay of foreigners, and playing significant prevention role. The above is reflected in documents significant for the migration system in Poland, i.e. “*Migration Policy of Poland – the Current State of Play and the Further Actions*” and in a bill on foreigners, the text of which should be adopted by the Sejm of the Republic of Poland by the end of 2013. The first of them provides a special road map of new migration solutions while the second one implements a number of solutions indicated in the strategic document. Among them should be mentioned:

- reinforce and improve existing procedures and mechanisms;
- limit channels of illegal immigration (fake students, fake marriages, foreigners taking advantage of simplified system of taking up the employment);

76. Joint Action Plan of Poland and Ukraine (Road Map) signed on 30 September 2010 by Polish and Ukrainian Premiers was the main document governing the above cooperation. Based on the Road Map, to the tasks of the Polish-Ukrainian working group were included, among others, Polish-Ukrainian UEFA EURO 2012 safety strategy and protection of the state borders as well as control of the border traffic during UEFA EURO 2012.

77. State Border Guard Services of Ukraine.

- distribution of information in the countries of origin on opportunities of legal migration while indicating at the same time the consequences of the violation of the provisions of migration law;
- reduce time of expulsion decisions specifically in case of minors at guarded centres;
- set priority to voluntary returns; and
- introduce regulations that in justified cases will allow persons staying illegally to legalise their stay or leave the Republic of Poland without negative consequences (entry on the list of *personae non gratae*).

Under the return policy, among additional activities aimed at developing prompt, sustained, and effective returns the following should be pointed out:

- organise by the Border Guard many inter-corporate meetings of consultative character in order to foster cooperation and exchange experience related to return decisions with regard to foreigners illegally staying in Poland;
- organise consultations with other EU Member-States (e.g. with Lithuania) on the execution of an agreement on the transfer and reception of persons;
- prepare study visits concerning, among others, the best practices in the monitoring of forced returns based on the experience of other EU Member-States (in May 2012, such meeting was arranged with the cooperation of Germany and the Netherlands);
- organise charter flights by Border Guard (often with the cooperation of other EU Member-States) and the participation in the European Union charter flights coordinated by Frontex Agency.

The Act of 27 April 2012 amending the Act on foreigners and the Act on employment promotion and labour market institutions implementing into Polish legislation of provisions of the so-called Return Directive (*Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals*), entered into force on 12 June 2012. As a result the abovementioned directive changed the approach to expulsion of foreigners who stay illegally in the European Union by stressing the significance of their voluntary return. Therefore the amendment of the Act provides that the expulsion decision has to contain a deadline of 7-30 days (at present: not more than 14 days) for the foreigner to voluntarily leave the territory of the Republic of Poland. Moreover, the proposed amendments include the following:

- individual approach when establishing the date of the re-entry ban, which was not provided for in the laws so far (the re-entry ban date resulted directly from legal provisions) and the possibility to prohibit the entry to the territory of the Republic of Poland – and when required by the Directive, to Schengen Area – by way of an administrative decision (not allowed under the law so far); the re-entry ban will be established within the limits provided for with reference to individual causes of the decision on expulsion from Poland;
- the opportunity of revoking the prohibition of re-entry to Poland or Schengen area when the foreigner proves that s/he implemented all recommendations of the return decision containing the re-entry ban or if the re-entry to Poland or Schengen Area is based on humanitarian reasons;
- entering the personal data of the foreigner in the register of foreigners

whose stay in Poland is undesirable only after the final decision containing the re-entry ban is issued;

- the opportunity for the foreigner to apply for the removal of his/her data from the register if the data were entered in the register on the basis of a decision resulting from a procedure that started after 23 December 2010, i.e. one day before the deadline for implementation of the Return Directive;
- obligation for a body carrying out the proceedings on expulsion to provide an interpreter for a foreigner whose command of Polish is insufficient and to ensure the translation of selected parts of the decision into a language understood by the foreigner.

In order to facilitate the transit of foreign nationals into Poland that were expelled from another Member-State, Poland approved “standard form of the recognition of a return-related decision for transit via land” presented on 12 September 2011, during a meeting of the Working Party on Integration, Migration, and Expulsion in Brussels. According to the adopted assumption, a foreigner that received a return-related decision will comply to a decision voluntarily and will be able to travel through another Member-State without the necessity to apply for a transit visa. This is in conformity with *Directive 2008/115/EC* that encourages for a voluntary return without the participation of escorts.

The year 2012 saw activities regarding the negotiation on readmission agreements signed by the EU with third countries. Below follows the list of some of the agreements:

- *Agreement between the EU and Russian Federation of 25 May 2006* (the Agreement came into force on 1 June 2007). The Implementing Protocol to the Agreement was signed in Moscow on 28

November 2012. Currently, works aimed at the notification of the Agreement to the EU-Russia Readmission Committee.

- *Agreement between the EU and Georgia of 22 November 2010* (the Agreement came into force on 1 March 2011). Works on compromising the text of the Protocol are underway.
- *Agreement between the EU and Ukraine of 18 June 2007* (the Agreement came into force on 1 January 2008). Final works on the content of the negotiated draft in English for the final approval are in progress.
- *Agreement between the EU and Serbia of 18 September 2007* (the Agreement came into force on 8 November 2007). Works to settle the final content of the Protocol are underway.
- *The Agreement between the EU and Moldova of 10 October 2007* (the Agreement came into force on 1 January 2008). Upon signing the Protocol to the mentioned Agreement by the Polish side, arrangement works on the ratification of the Protocol are in progress.
- *The Agreement between EU and Sri Lanka of 4 June 2004* (the Agreement came into force on 1 May 2005). After delivering the draft implementation protocol by the Polish side in 2011, in January 2012, the Minister of Foreign Affairs of Sri Lanka notified about the lack of readiness to start negotiations on signing the Protocol.

In order to ensure the execution of the readmission *Agreement between EU and Pakistan of 26 October 2009* (Agreement came into force on 01.12.2010), a meeting with representatives of the Embassy of the Republic of Poland in Islamabad to discuss the cooperation on the execution of the Readmission Agreement between the EU

and Pakistan was organised. Works on the settlement of the final version of the implementation protocol have been resumed in 2013.

The Border Guard took part in both meetings of Joint Readmission Committees of the EU and Georgia in Tbilisi (on 12 March 2012) and of EU and Pakistan in Islamabad (on 11 June 2012).

Under the cooperation with third countries on the readmission and on the confirmation of identity, a meeting with representatives of the following diplomatic posts was held: Armenia, Azerbaijan, Belarus, Georgia, Kazakhstan, Moldova, the Russian Federation, Ukraine, and Uzbekistan. Additionally, the following took place: two meetings with representatives of the State Border Guard and Migration Service of Ukraine, a meeting with representatives of the Ministry of Public Security of Vietnam Border Traffic Control Office, with representatives of the Federal Migration Service of Russia and with the Consul of the Embassy of Bangladesh in The Hague. Separate meetings with Ukraine served the exchange of experiences in the execution of repatriation activities from the countries of origin.⁷⁸

As far as the execution of readmission agreements with the EU Member-States is concerned, expert meetings were held with Lithuania, France, and Germany. Meetings with Austrian, Swedish, German, Czech, and Hungarian partners supported the exchange of experiences and best practices in the area of organisation of repatriation activities. The issues relating to identification and acquisition of replacement docu-

ments were discussed during meetings with representatives of migration services from the Netherlands and Belgium.

The Agreement signed on 12 July 2005 by the International Organization for Migration and the Ministry of the Interior and Administration on assistance in voluntary returns of foreigners leaving Poland forms a basis for the implementation of the programme of voluntary return of foreigners in Poland. The entry into force on 10 March 2012 of the *Agreement between the Minister of Interior and Administration of the Republic of Poland and the International Organization for Migration amending the Agreement of 12 July 2005 between the Minister of the Interior and Administration of the Republic of Poland and the International Organization for Migration on cooperation in the field of voluntary returns of foreigners leaving the territory of the Republic of Poland, which was signed on 26 October 2011*, led to the extension of cooperation between the Minister and the IOM in the organisation of assistance in voluntary return of foreigners leaving the territory of the Republic of Poland.

Pursuant to the document, the group of persons authorised to apply for assisted voluntary return is extended to include i.a. foreigners recognized as victims trafficking in human beings by an authority competent for proceedings aimed at combating trafficking in human beings. The agreement specifies also the scope and forms of assistance provided to foreigners with regard to voluntary returns, taking into account the specific situation of victims of trafficking in human beings and introduces i.a. the requirement to perform, if possible, an individual risk assessment related to the return of victims before they leave the Republic of Poland.

The voluntary returns programme is implemented by the International Organization for Migration (IOM) in cooperation with

78. Meetings that served the improvement of operating the instrument of the migration policy such as agreements on readmission and repatriation activities with third countries (also under the EU), obtained financial aid under the programme "The Consolidation of the Cooperation among Third Countries in the Identification of Migrants" – executed with the use of the European Return Fund – Priority III under "The Consolidation of the Cooperation among Third Countries in the Identification of Migrants" programme.

partners: Office for Foreigners and Border Guard.

In 2012, the basis for cooperation of the Office for Foreigners and the Border Guard with IOM was the so-called 2012 Action Plan accepted by the Minister of Interior on 7 March 2012. In the framework of the plan mentioned above, several IOM projects co-financed from the European Returns Fund are being implemented along with the voluntary returns plan financed in total from the state budget.

The former are:

- *Information, Travel, Reintegration – Assistance Voluntary Returns from Poland, phase II.* The project provides for the organisation in 2012 of assisted returns for 630 foreigners;
- *Assistance in Voluntary Returns from Poland and Reintegration,*
- *Information campaign and assistance in voluntary return.*

Table 2. Number of participants in the assisted voluntary return programmes in 2006-2012

	2006	2007	2008	2009	2010	2011	2012
Number of persons who benefited from assistance in voluntary return (Articles 70 and 75 of the Act)	138	48	514	256	25	15	5
Number of participants who have been provided with support for voluntary return programmes (implementation of the Agreement of 2005)	228	262	721	226	180	8	7
Number of participants who have been provided with support for voluntary return programmes (implementation of IOM projects co-financed under the financial support of European Funds, the Office for Foreigners and the Border Guard)	184	481	241	1339	1442	1141	752
TOTAL	550	791	1476	1821	1647	1164	764

Source: Migration Policy Department of the Ministry of the Interior on the basis of IOM and the Office for Foreigners data



5

International Protection, including Asylum



Similarly to previous years, year 2012 saw changes in the system of international protection for foreigners on the territory of the Republic of Poland. One of the most important legislation changes (connected also indirectly with the strategic document entitled “*Migration Policy of Poland – the Current State of Play and the Further Actions*”) was the amendment of former provisions of the *Act of 28 July 2011 on the legalisation of stay of some foreigners on the territory of the Republic of Poland and on amending the Act on granting protection for foreigners on the territory of the Republic of Poland and of the Act on foreigners*.⁷⁹ In the area of asylum, the said Act aimed at the following:

- introduce legal solutions that eventually enable the provision of assistance and inclusion into the pre-integration process of foreigners transferred to Poland under the relocation or resettlement;
- extend the scope of assistance provided to foreigners applying for the refugee status, since in the light of the present practice, a need to introduce a regulation that will improve the level of assistance granted to foreigners and increase the availability of benefits has arisen;

- specify regulations concerning the procedure of granting the refugee status in order to improve the entire process:
 - » of making decision on the transfer and suspension of the proceedings if circumstances justifying the transfer of a foreigner under the *EC Regulation No. 343/2003* occur;
 - » a regulation imposing on an applicant a duty to appear within two days as of lodging the application for granting the refugee status in the centres for foreigners run by the Head of the Office for Foreigners⁸⁰ has been introduced;
 - » additional condition for suspending the proceedings in case of failing to appear in the centre for foreigners within two days as of lodging the application for granting the refugee status has been introduced;
 - » a principle has been introduced, in accordance to which certificates enabling a foreigner to undertake employment on the territory of Poland, issued to a foreigner when a decision on granting the refugee

79. Journal of Laws of 2011 No. 191, item 1133. Provisions of the Act came into force on 1 January 2012.

80. The lack of this obligation effected in considerable hardship in carrying out proceedings. It resulted in difficulties in serving letters and conducting examination of a foreigner and prolonged the time of examination. It also caused the disruption of the benefit system and health care provision.

status has not been delivered within 6 months as of filing the application, are valid until the date when a decision on granting the refugee status becomes final.

Moreover, it should be mentioned that in 2012, works aimed at the implementation of regulations of the *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted (recast)*⁸¹ were undertaken.

In 2012, a number of applications registered by Poland under the Dublin procedure grew up considerably

Referring to statistical data, it should be mentioned that the number of persons applying for one of the forms of international protection in Poland in 2012 achieved the record value in history since 10 753 persons lodged applications for granting the refugee status (more by almost 4 thousand than in 2011, which is comparable with equally record numbers in 2007 and 2009, when such applications were filed by 10 048 and 10 587 persons, respectively), out of which 85% accounted for applications filed for the first time (last year 74%).

Nationals from the Russian Federation (usually declaring the Chechen nationality) filed the largest number of refugee applications – 6 084, and nationals from Georgia – 3 234 applications.

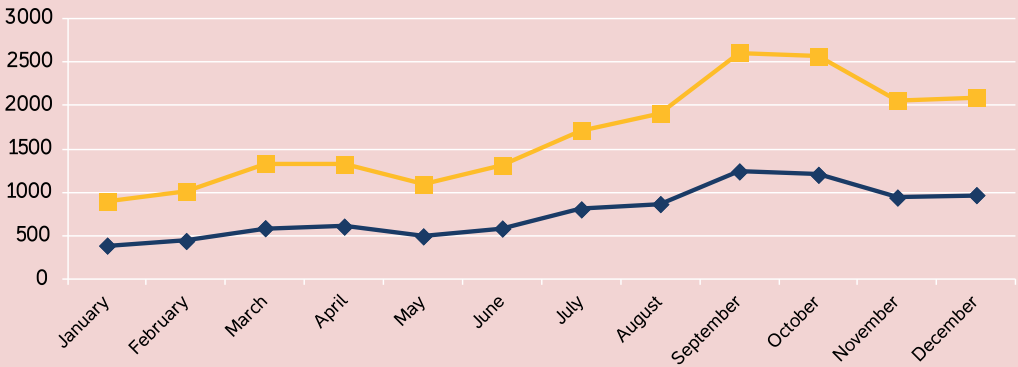
A large number of applicants take advantage of the refugee procedure for migration to other EU Member-States or to the Schengen Area. According to figures provided by the Border Guard and the Office for Foreigners less than 1/6 of applicants are awaiting a decision in pending in Poland proceedings. This is the main reason that a large number of proceedings (app. 78% in 2012) were suspended.

Comparing to previous year, in 2012 a number of decisions on the merit dropped (apart from decisions on granting subsidiary protection) issued in the first instance. Hence, under proceedings considered on the merit and completed in 2012, in 21% of the cases, one of the forms of protection was granted (3.5% - refugee status (87 persons), 5.5% subsidiary protection (140 persons), 12% - permit for a tolerated stay (292 persons)). Migrants granted the protection by Poland came from the Russian Federation, Belarus, Georgia, and Armenia.

A number of applications for assuming by Poland a responsibility for examining the applications for the refugee status lodged on the territories of other EU Member-States under the Dublin Convention has considerably grown up (4 708 applications and 4 432 positive decisions on the assumption of responsibility). Comparing to 2011, in 2012 Poland referred almost twice as many of such applications to other EU Member-States (167 applications, 143 positive decisions on the assumption of responsibility).

81. Provisions of the Directive are to be transposed to the countries' national legal orders by 21 December 2013.

Chart 6. Number of all and first applications submitted by foreigners to be granted international protection in Poland in 2012, by month of submission



Source: Office for the Foreigners

Table 3. Number of submitted applications to be granted a refugee status in 2012

Citizenship	2012		
	women	men	Total
Russia	3 145	2 939	6 084
Georgia	1 214	2 020	3 234
Armenia	204	209	413
Kazakhstan	62	59	121
others	224	677	901
Total	4 849	5 904	10 753

Source: Office for the Foreigners

5.1. Common European Asylum System (CEAS)

On 14 September 2012, the Sejm of the Republic of Poland adopted the information of the Minister of Interior and the Minister of Justice about the creation of the *Common European Asylum System* (CEAS), delivered by the Secretary of State in the Ministry of the Interior.⁸² The information presented on the plenary session of Sejm on 11 September 2012 covered the history and present state of works on the harmonisation of asylum policy at the Community level. During the discussion, representatives of parliamentary clubs formulated a number of detailed questions and doubts, but stressed relatively unanimously the

need to harmonise standards in the area of asylum at EU level. In the report summarising the execution of an 18-month programme of three successive presidencies of the Council of the European Union (i.e. trio PL-DK-CY), it has been underlined that the considerable progress has been made in all areas related to the establishment of the *Common European Asylum System*. Specifically the following elements have been highlighted:

- in December 2011, i.e. during the Polish Presidency of the Council of the European Union *Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the*

82. For more information please visit: http://www.emn.gov.pl/porta/esh/704/9683/Sejm_przyjal_informacje_ministra_spraw_wewnetrznych_oraz_ministra_sprawiedliwosc.html

protection granted (recast version) was adopted;

- in October 2012, a political agreement was reached with the European Parliament (EP) on the *amended proposal of the EC on the Directive of the European Parliament and of the Council laying down the standards for the reception of asylum seekers (recast)*, on the text subject to intensive negotiations conducted by national experts during the Polish Presidency of the Council of the European Union;
- in November 2012, a political agreement was reached with the European Parliament (EP) on an *proposal of the EC on the Regulation of the European Parliament and of the Council for international protection lodged in one of the Member States by third-country nationals or stateless persons establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person (recast)* – during the Polish Presidency of the Council of the European Union, negotiations on the regulation were resumed owing to the replacement of a clause on the suspension of Dublin transfers by an early warning, preparedness and crisis management mechanism in the field of asylum;
- in result of works carried out by the Polish Presidency of the Council of the European Union on a mechanism for early warning, preparedness and crisis management in the field of asylum, in March 2012, conclusions of the EU Council on solidarity with the Member-States subject to critical migratory pressure were adopted;

- an informal trilogue with the European Parliament on the text of an amended *proposal concerning the Directive of the European Parliament and of the Council on common procedures relating to granting and withdrawing international protection (recast)*. The Polish Presidency already initiated negotiations with the Council on the text.

In 2012, Poland was carrying out a number of projects regarding information on the country of origin in favour of the development of the *Common European Asylum System (CEAS)*. The projects were research missions to the countries of origin co-funded from the European Refugee Fund⁸³ on one hand, and an independent project for the expansion of the library at the Country of Origin Information Department at the Office for Foreigners on the other. Under the latter project, further purchases of books, films, maps, an music have been planned with more attention paid to electronic versions; acquisition of further external expert reports; enhancement of the computer condition on the employees' work places and on readers' places; promotion of the library and modernisation of the Światowid information on the country of origin system.

5.2. European Asylum Support Office (EASO)

Between 2011 and 2012 Poland seconded employees of the Office for Foreigners to work in the following thematic fields of EASO:

- *Asylum Intervention Pool*: 11 national experts were appointed.
- *EAC Training Pool*: 7 persons.

83. In 2012, research missions to the Republic of Belarus and Kirgizstan were carried out. In 2013/2014, research missions have been planned for Russian Federation, Georgia, Kazakhstan, and Cameroon.

- *Country of Origin Information*: one person was seconded to the Reference Group and one participates in the work of the Task Force Group.
- *Consultation Forum*: one person was seconded to play the role of a contact point for the Consultation Forum.
- *AIP National Contact Point*: one person was seconded to play the role of a contact point for asylum support teams.
- *EAC National Contact Point*: one person was seconded to play the role of a contact point for European Asylum Curriculum trainings.
- *Evaluation, updating and upgrading of the EAC training module*: a team of experts of the Office for Foreigners took part in works on the updating and upgrading of EAC training modules: Drafting and Decision-making, Dublin regulation, Evidence Assessment.

A Polish representative was also seconded for work on the development of a new EAC module concerning the Common European Asylum System, and will be responsible for the coordination of the work of an expert group. The module is mainly to be intended for “practitioners”, i.e. persons carrying out the refugee proceedings, persons interrogating foreigners, experts in information on the foreign nationals’ countries of origin, persons responsible for the conditions of reception. According to the adopted by the EASO assumptions, everybody who wants to undertake training under the EAC should do the module concerning CEAS. Works on the new module were initiated at the end of November 2012 and are to be concluded in August 2013.

Poland is one of the five Member-States taking part in the works of the EASO Working Party Knowledge Management.

Poland also actively participates in the EASO management board meetings that are held four times a year, during which key decisions concerning the functioning and operations of the Agency are made.

Additionally employees of the Office for Foreigners participated in 2012 in the following trainings and meetings organised by EASO: (1) teaching training; (2) seminar on resettlement; (3) conference on Afghanistan; (4) a series of expert meetings on age identification; (5) quality meetings.

In 2012, the Office for Foreigners joined the “*European Platform of Reception Agencies*” (EPRA), whose objective is to stimulate the exchange of information of strategic character on the executive and expert level of reception organisations, information compilation, identification, and monitoring of good practices of efficient and informed management of reception of asylum seekers within the European Union. Future structure and material tasks of the EPRA platform were described in a form of four goals:

- create network of all-European ranging (27 EU Member-States);
- create network that will be useful for the development of the reception systems for the EU Member-States, as well as for the candidate states and for those that are planning the accession to the EU in future;
- prepare thematic/statistical reports concerning the reception of foreigners;
- structural development of cooperation with the initiatives launched within the EU (ENARO, European Migration Network, European Asylum Curriculum).

In 2012, representatives of the Office for Foreigners participated in the EPRA working party meeting, during which the quality

management in the reception system was the leading subject and in the so-called “Full round” meeting of EPRA platform (steering committee), during which the results of works in 2012 were summed up and a decision on the expansion of cooperation between EPRA and EASO made. In mid-2014, EASO should assume the role of EPRA coordinator and in 2015, it will consider the EPRA activity as an integral part of EASO activity.

5.3. Intra-EU solidarity, including relocation

The *Act of 28 July 2011 on the legalisation of stay of some of the foreigners on the territory of the Republic of Poland and on amending the Act on granting protection for foreigners on the territory of the Republic of Poland and the Act of foreigners*⁸⁴ mentioned in the introduction, as far as granting the protection for foreigners on the territory of the Republic of Poland is concerned, it was the purpose of the Act to introduce legal solutions that would eventually provide a possibility to grant assistance and include in the pre-integration process the foreigners that are transferred to Poland under relocation or resettlement. At the same time, it introduced definitions on the above notions to the national legal order.

Following the introduced regulations, the Council of Ministers, under the ordinance, will determine the number of foreigners that may be relocated or resettled onto the Polish territory in a given year or years and from which countries they will come. The Ordinance will set forth the amount of means assigned for resettlement or relocation costs, including: costs relating to activities undertaken outside Poland, costs of assistance granted to resettled or relocated foreigners and sources of covering

these costs.⁸⁵ It is also envisaged that the Ordinance on the resettlement or relocation will be of incidental character and will be announced as appropriate.

To comply with the protection standards recommended by UNHCR and ensure the protection for foreigners against the expulsion, the best form of legalising the stay of people that could be subject to resettlement or relocation, the refugee status or subsidiary protection will be granted. Such approach will concern not only the resettled foreigners that are covered by protection under the UNHCR mandate but also those that are relocated and that already are under international protection (refugee status or subsidiary protection) by a Member-State, on the territory of which they are staying. To this end, the Act includes such solutions that will allow to carry out a substantial part of proceedings outside the country in the places, where the foreigners are staying. The proceedings will be conducted according to the provisions of international law. This regulation will allow to shorten the time of proceedings and will ensure that only such foreigners will be relocated or resettled to Poland, who comply with the conditions for granting a refugee status or subsidiary protection determined in the Act on granting international protection. The first temporary certificate of a foreigner's identity will be valid for 30 days as of the date of entry onto the territory of the Republic of Poland. A foreigner's travel document will be transferred to the Head of the Office for Foreigners for safekeeping, right after the entry onto the territory of the Republic of Poland. Persons without a travel document will be granted a temporary Polish travel document entitling them to a one-time entry onto the territory of the Republic of Poland.

The above changes in the national legislation were applied due to the fulfilment

84. Journal of Laws of 2011 No. 191, item 1133.

85. Similar solution is operating under the temporary protection.

by Poland international obligations. As of 1 January 2012, Poland has been involved in the EUREMA II pilot project concerning the relocation of beneficiaries of international protection staying in Malta to other EU Member-States. The project financed under the Refugee European Fund is a continuation of EUREMA I pilot project carried out from January 2010 to June 2011 (also with the participation of Poland, declaring the readiness to receive 6 persons that were granted international protection in Malta; however, due to factors being beyond the control of Poland, activities assumed under the project have not taken place). In the present edition of the project, Poland offered 50 places for persons that were to be relocated in 2012 from Malta. The first foreign nationals were transferred to Poland only at the beginning of 2013. A pre- and integration scheme for relocated persons that according to preliminary schedule have come to Poland in January 2013 is under preparation.

Upon an official approval of the project by the EC, since mid-2012, arrangements and consultations with partners from Malta on drawing up the list of candidates for the relocation in Poland have been underway. Finally, in September/October 2012, Malta submitted a list of six persons ready for the relocation to Poland. At the end of November, a selection mission took place in Malta during which status-related and social interviews were carried out with candidates who were enabled to lodge applications for a refugee status in Poland in accordance with the procedure provided for in the *amended Act on granting protection*. Applications were forthwith submitted for examining in order to conclude the refugee procedure concerning persons for relocation by the date required under the Act (i.e. within 30 days after the arrival of relocated in Poland). Until 23 January 2013, foreign nationals (single men - 1 from Eritrea, 5 from Somali) have been relocated to Poland and currently are under the protection of the Office for Foreigners.

Five of them have families in the countries of the region and will try to reunify with them in Poland. On 20 February 2013, all relocated foreigners were granted a positive decision on subsidiary protection. Only before the arrival of the relocated, an overall template for actions under the pre-integration benefits (provided by the Office for Foreigners for a period up to 6 months from the date of a decision on granting international protection in Poland to the relocated) and a preliminary outline of the integration scheme had been developed. It includes, among others, an intensive Polish language course organised and run by the *Linguae Mundi* Foundation that has long experience in work with foreigners. It was possible to provide under the project a support of a cultural mentor.

It should be noted, that the implementation of EUREMA II project (and the relocation of the first foreigners) provides an opportunity to check the efficiency of the relocation mechanism introduced to the Polish legislation. According to the *amended Act on granting protection for foreigners on the territory of the Republic of Poland*, the Office for Foreigners will grant the relocated assistance for 6 months as of receiving a decision on granting one of the forms of international care in Poland. After 6 months, they will be offered a standard integration scheme for foreigners covered in Poland by international protection.

In 2012, the Ministry of the Interior carried out preparatory works for the development of “*Action concept in the light of mass inflow of foreigners into the territory of the Republic of Poland*”; an important element of the concept was the “*Diagnosis of the system of reaction to the mass inflow of foreigners*” – an attempt at an analysis of the risk of mass inflow of foreigners to Poland and study of available resources, including procedural, human, technical and financial. The objective of the intra-ministerial Diagnosis, apart from the presentation of possible action concepts, was to identify

the reasons and nature of the migration crisis in the country/countries of origin of potential migrants that lead to the mass inflow of foreigners to Poland. This measure can contribute to the identification of regions or countries that may generate mass migrations of various categories of foreigners to Poland. A part of contribution to the materials described above was developed on the basis of an “*Ad hoc query on appropriate action in case of sudden increase in the inflow of migrants to the EU MS of 12 December 2011*”.

The first foreigners were transferred to Poland under EUREMA II project at the beginning of 2013

5.4. Cooperation with third countries, including resettlement

In 2012, the Office for Foreigners participated in a number of projects targeted at the cooperation with the countries of origin of foreigners applying for one of the forms of international protection in Poland. Participation in the implementation of the project for the Enhancement of Ukraine Administrative Capacities in the Management of Reception of Persons Applying for International Protection is worthwhile to mention. The Project is co-funded from the resources of the Ministry of Foreign Affairs. The presentation of the analysis of the Polish asylum system is one of its components. The Office for Foreigners also participated in the project of the Prague Process “Qual-

ity and Training in the Asylum Process: the European Asylum Curriculum”, under which the EAC trainers will conduct training in Russian in EAC “Inclusion” module for the employees of migration offices from Ukraine, Moldova, Belarus, Armenia, Georgia, and Kirgizstan.

As of November 2012, the Office for Foreigners together with UNHCR has been carrying out “Response to Vulnerability in Asylum” project aimed at developing mechanisms of recognition and response to special needs of vulnerable people applying for international protection, quality improvement of the refugee-related decision making process and development of competencies and potential of entities operating in favour of this group in Middle Europe countries.⁸⁶ The main assumptions of the project are:

- collect information regarding the situation of particularly vulnerable persons that are under procedure of granting the refugee status in selected European Union States;
- ensure effective and proper identification thereof; and
- create tools that will allow to ensure effective response to the needs of the group.

The project provides for comprehensive approach to the matters relating to a situation of vulnerable persons, specifically taking into consideration such criteria as: age (e.g. unaccompanied children, elderly persons), sex, psychological and physical conditions (e.g. the disabled, persons with post-traumatic stress disorder), experience (e.g. victims of human trafficking), a social group or personal characteristics (e.g. sex-

86. In the project, Bulgaria, Romania, Slovakia, Hungary, and Great Britain take part apart from Poland. The project is co-funded from the European Refugee Fund. More details on the project available on the website: http://www.udsc.gov.pl/files/projekty_i_programy/RVA-broszura-pl-FIN.pdf.

ual minorities, single women, single mothers).

Among activities scheduled for implementation in course of the project are:

- Prepare the analysis of law, case law, policy at the national level and the European Union standards. It will allow to present full image of a situation of vulnerable persons that are under procedure of granting the refugee status, identify main problems, good practices, and priority areas for future activities in every country taking part in the project.
- Monitoring and assessment of law application in countries taking part in the project. This activity aims at ensuring the overall examination of vulnerable persons that are under procedure of granting the refugee status. Monitoring will be carried out in partnership with public administration and in cooperation with non-governmental organisations and other entities. It will allow to evaluate the procedure of examining an application for the refugee status and prepare comparative analysis at transnational level.
- Develop skills and competencies of the representatives of public administration bodies in order to ensure effective response to the needs of vulnerable persons applying for the refugee status.
- Create and adopt Standard Operating Procedures for every country participating in the project. It will improve the quality of decisions, implemented policy, and standards of receiving applicants that require special care. Owing to Standard Operating Procedures, it will be easier to harmonise national procedures under the *Common European Asylum System*.

6

Unaccompanied Minors and other Vulnerable Groups



6.1 Unaccompanied minors

As of 1 January 2012, the *Act of 9 June 2011 concerning family support and foster care*,⁸⁷ amended the *Act of 13 June 2003 on granting protection for foreigners on the territory of the Republic of Poland* within the capacity of the Head of the Office for Foreigners to take unaccompanied minors into care. Pursuant to a new formulation of art. 63 of the *Act of 2003*, the costs of stay of an unaccompanied minor with a professional foster care family playing the role of an emergency shelter or at care and educational establishment of intervention type and the costs of medical care are financed from the state budget from the part being at the disposal of the competent minister of the internal affairs, from the means allocated to the Head of the Office for Foreigners until the final decision regarding the refugee status is made.

Act on family support and foster care determines that a minor can stay in an intervention sort of an establishment for three months with an option of prolonging that period. Past that time, a court verdict should be delivered about placing a minor in a care and educational establishment of socialising sort. In accordance with the

provisions referred to above, the Head of the Office for Foreigners is responsible for the costs of stay of an unaccompanied minor in a foster family playing a role of an emergency shelter or at a care and educational establishment of intervention type. He is responsible throughout the term of proceedings only for the costs of medical care of an unaccompanied minor regardless of the type of establishment, at which a child is staying.⁸⁸

Within a reporting period, attempts were made to solve a problem through multifaceted activities aimed at the continuation of the cooperation with one specialised establishment that would be responsible for meeting the needs of a minor. Until now, no solution advantageous from the point of view of a minor as well as of an institution responsible, that is, the Office for Foreigners, has been developed. However, works on finding an appropriate establishment that would provide proper care to minor foreigners applying for a refugee status in Poland are underway. Attempts are also made to conduct interviews regarding the refugee status in the place of accommodation of minor foreigners.

87. Journal of Laws of 2011 No. 149, item. 887 as subsequently amended, available on the website <http://dokumenty.rc.lgov.pl/D2011149088701.pdf>.

88. Until now, the head of the Office exercised care by providing placement in a specialised place – Children’s Home No. 9 at 13 Korotyńskiego Street in Warsaw due to agreements concluded every year between the Office for Foreigners and the Capital City of Warsaw. Similar agreement for 10 places at Children’s Home No. 9 at 13 Korotyńskiego Street for minor foreigners was concluded for a period from 1 January 2012 to 31 December 2012.

In May 2012, training and workshop dedicated to methods of improving care of unaccompanied minors applying for a refugee status in Poland were held. The above activities were carried out under the IOM project called Guardianship and Care of Unaccompanied Minor Asylum-seekers in Central Europe. Representatives of the following institutions and non-governmental organisations took place in the above-mentioned events, i.e.: Office of Social Policy of the Capital City of Warsaw, Children's Home No. 9 in Warsaw, Helsinki Foundation for Human Rights, The Law Advice Centre (law clinic) of the Warsaw University, District Court for the Capital City of Warsaw, Association for Legal Intervention, Border Guard, Warsaw Centre for Family Assistance and Office for Foreigners that also run the above-mentioned training.

The educational part included, among others, the following matters:

- further operation of the care system for minor foreigners applying for a refugee status on the territory of the Republic of Poland in connection with amendments that the *Act of 9 June 2011 concerning family support and foster care* (Journal of Laws 2011, No. 149, item 887) introduced in January 2012;
- problem of legal care for unaccompanied minors staying under actual care of relatives;
- problems relating to a position of a legal guardian of a minor in proceedings regarding the refugee status;
- problem of marriages of minor girls with special consideration given to a situation of girls staying under actual care of legal guardians established for the refugee status proceedings.

In course of a discussion, participants of the meeting dealt with a problem of a group of special risk minors, including teen-year old

girls coming to Poland or staying in Poland under the care of one of family relatives (including aunts, uncles, cousin etc.). The girls quite often turn to be minor wives of their actual guardians being at the same time their legal guardians.

In July 2012, the Office for Foreigners took part in the EAC⁸⁹ training that concerned examining the minors. The goal of the training was to prepare a trainer who, after completing the above-mentioned course, would run a similar training for employees of appropriate institutions in his country.⁹⁰ A course for trainers and a meeting with experts on examining the minors applying for a refugee status have provided a possibility to broaden theoretical knowledge and encounter the latest technology in this area.⁹¹

At the end of 2012, a decision was made on profiling guarded centres for foreigners, among others, to ensure better execution of rights to which minors are entitled (and unaccompanied minors) and improve living conditions of this group. The decision resulted in selecting two guarded centres, in Kętrzyn and Biała Podlaska. The minors awaiting the implementation of decisions imposing an obligation to leave the territory of Poland are referred to these centres. Minors under the care of an adult as well as the unaccompanied ones are trans-

89. *European Asylum Curriculum* (EAC) is implemented under the auspices of General Directors' Immigration Services Conference (GDISC) on the initiative of immigration offices of Sweden, Holland, Czech and Spain and Odysseus Academic Network, whose mission is to lay down principles, methods, and institutional basis of harmonisation of training employees of the immigration offices examining applications for the refugee status.

90. At the end of April and the beginning of May 2013, training on questioning minors has been scheduled to be conducted in Poland.

91. The need of organising training in the selected subject was reported to EASO, which inspires with hope for the enhancement of the training module and development of successive projects targeted at broadening the knowledge and skills of employees in the area of capacity of understanding with minors applying for international protection.

ferred to Kętrzyn while to Biała Podlaska - only minors accompanied by adults.⁹²

6.2. Other vulnerable groups

A vital element of the activities of the Ministry of Health in 2012 were works on the bill amending the *Act of 13 June 2003 on granting protection for foreigners on the territory of the Republic of Poland* in order to transpose the provision of the *Directive of the European Parliament and the Council 2011/95/EU of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted* to the Polish legal order. The above has caused the compliance of provisions of *Act 27 2004 on publicly funded health-care benefits*⁹³ and enabled the foreigners that have been given a positive decision on granting the refugee status or subsidiary protection to grant the status of beneficiaries different than the insured mentioned in art. 2 par. 1 clause 2 and 3 of the Act. These persons can be given a decision of commune authorities competent for a foreigner's domicile on the territory of the Republic of Poland on the issuance of a document confirming the right to health care benefits (art. 54 of the above-men-

tioned Act). Under this article, they can take advantage of health care benefits. In case of minors, (i.e. persons under the age of 18) and women during pregnancy, childbirth and the puerperium they are eligible to healthcare financed from public funds on the same rights as Polish nationals.

Pursuant to art. 68 par. 1 of *the Act of 2003 on granting protection* for a foreigner that notifies the authorities conducting the proceedings that he has been subjected to violation, is disabled or whose mind-body condition indicates a presumption of violence, the Head of the Office for Foreigners provides medical or psychological examination to confirm the circumstances. The above provision indicates that examinations should be performed with regard to every person that declares that he/she has been a victim of violence or if his/her conduct indicates that he/she has been a victim of physical violence. Appropriate examination should be performed regardless of the stage of proceedings if it is revealed that the applicant is a person with special needs (art. 68 par. 2 of the above-mentioned Act).

The identification of a “vulnerable” person, i.e. usually a person that after having experienced violence in the country of origin suffers painful consequences such as loss of health, disability or PTSD⁹⁴ and whose mind-body condition indicates that such person is not capable to report his/her story, has influence on the reliability of such person's evidence. Furthermore, the identification of the above-mentioned category of persons allows to create the best possible conditions at a reception centre by providing appropriate medical and psychological care in course of proceedings on granting the refugee status.

Having in mind the fact that 80% of applicants in their applications for the refugee status declare that they have been sub-

92. The above matter may specifically apply to the adoption by Poland by the end of 2013 the Act on combating repeated victimisation of children, victims of sexual crime and human trafficking during penal proceedings. More details available thereafter. Problems and good practices in returns of minor foreigners including reintegration, assistance in voluntary returns and the problem of putting minors in detention centres were the subject of a discussion at “Practical Aspects of Procedures regarding the Unattended Minors in the Expulsion Procedures” Conference held in June 2012 in Copenhagen (Denmark). In the conference participated representatives of the EU Member-States, UNHCR, IOM, ECRE, and European Union Agency for Fundamental Rights and non-governmental organisations focusing their activities on the protection of children's rights.

93. Journal of Laws of 2008 No. 164, item 1027, as subsequently amended.

94. Post-traumatic stress disorder (PTSD).

jected to psychic and/or physical violence, the scale of the phenomenon is very big while the necessity to perform related examination is required in order to confirm the above-mentioned circumstances. In connection with the above, a model of operation with regard to the above-mentioned category of individuals which provides for operations consisting in the performance of psychological examination before the status-related interview and qualification to a special procedure, depending on the result of the examination was developed. During the examination, a psychologist:

- evaluates emotional condition of a foreigner in order to preclude or confirm problems of psychological nature;
- makes a diagnosis based on an interview and observation with special attention paid to PTSD symptoms (based on the DSM IV classification and information included in the case records);
- delivers an opinion substantiating or precluding the application of special procedure under the Act.

In partnership with the Office for Foreigners, in November 2012, the Halina Nieć Legal Aid Centre started the implementation of the project co-funded from the Refugee European Fund entitled “Give them a chance! – Legal and information support for special care people seeking protection in Poland and counteracting sexual and gender-based violence in centres for persons applying for a refugee status”. The project covers the following groups of activities:

- legal aid is provided individually at 8 centres in the HNLAC’s office, by phone, by post, by fax and via online;
- information campaign on sexual and gender based violence, domestic violence, and rights of asylum seekers with

the use of leaflets, information guides, and posters. The purpose is to educate the asylum seekers that some forms of behaviour and actions are in fact criminalised in Poland and that victims are entitled to assistance;

- tasks envisaged in the “*Agreement on standard operating procedures in the area of recognition, counteracting and response to cases of sexual and gender-based violence in centres for persons applying for a refugee status*”. The purpose of the tasks is to provide the exchange of information between the parties to the agreement, i.e. Office for Foreigners, Police, UNHCR, La Strada Foundation and HNLAC and regular meetings of the Evaluation Group and Local Cooperation Teams at the centres for persons applying for a refugee status as well as training for members of the groups, facilitation of system changes aimed at the improvement of safety. The above is to contribute to more effective integration of asylum seekers; a related training in 2013 will also include employees of the Office for Foreigners;
- carry out intercultural dialogue between host state society and refugees and a social campaign addressed to Polish society to promote acceptance of refugees in Poland.

In 2013, a monitoring study of safety conditions and occurrence of incidents of sexual violence in centres for asylum seekers will be conducted and of works of the so-called Local Cooperation Teams. The main task of the works will be to provide an answer to a question whether tools used by the Teams’ members are sufficient for effective and comprehensive completion of tasks ensuing from the Agreement. A long-term objective of the monitoring will be oriented at the improvement of asylum seekers’ integration chances in Poland.

7 Actions against Trafficking in Human Beings



Since 2004, the Inter-Ministerial Group on Combating and Preventing Human Trafficking including members that represent Ministry of the Interior, Ministry of Administration and Digitization (since 2012), Border Guard Headquarters, National Police Headquarters, Ministry of Labour and Social Policy, Ministry of Justice, Office for Foreigners, Ministry of Foreign Affairs, Ministry of Health, Internal Security Agency (since 2012), Office of the Government Plenipotentiary for Equal Treatment (since 2011) have been operating. Additionally, in the works in 2012 participated Chancellery of the Prime Minister, Ministry of Science and Higher Education, Ministry of Sport and Tourism, Prosecution General, National Labour Inspectorate,⁹⁵ Polish Ombudsman Office, Ombudsman for Children Office, Military Gendarmerie Office and non-governmental organisations: Caritas Polska, ITAKA Foundation, La Strada Foundation, Nobody's Children Foundation, Stowarzyszenie Po-MOC Association, Halina Nieć Legal Aid Centre, and International Organisation for Migration. The Group plays a function of an advisory & consultative body to the President of the Council of Ministers, evaluates the execution of

programmes aimed at combating and prevention of human trafficking and proposes and gives opinion on activities targeted at effective combating and prevention of human trafficking. Within the Group, in 2012 operated Working Party and two expert groups: for organisation of prevention actions and for system of support of human trafficking victims (since 2006, the group has been carrying out tasks of the National Referral Mechanism).

As of 1 January 2011, unidentified foreign victims of human trafficking (based on the *Act of 16 December 2010 amending the Act on promotion of employment and on labour market institutions and some other Acts*⁹⁶) have been exempted from the duty of holding work permit (in connection with holding residence permit by such persons for indefinite time under art. 53 par. 1 clause 15 of the *Act on foreigners*).

Furthermore, in 2012 the provisions of the *Directive of the European Parliament and of the Council dated 18 June 2009, No. 2009/52/EC providing for minimum standards for sanctions and measures against employers of third-country nationals illegally residing in Poland* were implemented under the *Act of 15 June 2012 on the effects of entrusting work to foreigners residing on the territory of the Republic of*

95. The National Labour Inspectorate is an institution included in the National Programme for Combating and Preventing Trafficking in Human Beings and is currently executing tasks scheduled under the National Action Plan for 2011 – 2012. It specifically organises training for labour inspectors dedicated to human trafficking and forced labour.

96. Journal of Laws of 2010 No. 157, item. 1725.

*Poland*⁹⁷ against the regulations. This Act has also introduced a number of solutions concerning the entitlements granted to the victims of human trafficking.

A problem of human trafficking was in 2012 a subject of interest of Sejm of the Republic of Poland. On 16 March last year, public opinion panel of “The System of Eliminating Human Trafficking in Poland” organised by the University of Warsaw Human Trafficking Studies Centre took place. On 18 April 2012, in Sejm, Members of Parliaments from various European countries and representatives of the non-governmental organisations and prosecution authorities participated in an international seminar entitled “Members of Parliament against Trafficking in Persons”.

In 2012, an implementation of the pilot programme of support of a minor human trafficking victim was continued. From 26-28 March, a meeting for representatives of four voivodeships (Łódź Voivodeship, Mazovian Voivodeship, Małopolskie Voivodeship, and West Pomerania Voivodeship), of which the programme had been implemented, was organised in Warsaw.

From 16-20 April 2012, experts from the Group of Experts on Action against Trafficking in Human Beings (GRETA) paid a visit to evaluate the implementation of the Council of Europe Convention on Action against Trafficking in Human Beings by Poland. The publication of the report has been scheduled for the first half of 2013.

From 16 – 18 October 2012, the first International Festival of Films about Human Trafficking “18/18” was organised on the sixth anniversary of the European Day Against Trafficking in Human Beings. The Festival’s idea was to build awareness, share knowledge, and inspire sensitivity and eventually lead to the change of attitudes of poten-

tial victims and witnesses, decision-makers and professionals, all those who encounter this crime. The Minister of the Interior⁹⁸ presented the main award for the winning films during the closing gala ceremony.

In May 2012, a successive edition of a contest for youth from secondary and upper secondary schools “Trafficking in Human Beings in My Eyes” (278 contestants) for a short literary form dedicated to trafficking in human beings was adjudicated. In October 2012, a contest for the best master thesis on trafficking in human beings (30 works had been submitted) was judged.

From 4-5 December 2012 in Warsaw, a conference “Migrants’ Rights in Practice” dedicated, among others, to trafficking in persons was held. The conference is an element of the project entitled “Migrants’ Rights in Practice” carried out in 2011-2014 by the International Organisation for Migration, Ministry of the Interior, and National Labour Inspectorate. The problem of human trafficking is an element of most of the tasks executed under the project.

In 2012, under the Ministry of Foreign Affairs “Polish Aid” programme, a project called the “Polish-Ukrainian Cooperation in Combating and Preventing Human Trafficking” was executed. The project was based on the recommendations of Polish-Ukrainian-Belarusian workshop for the representatives of law enforcement authorities, organised in 2011. Study visits and publications dedicated to the problem of trafficking in human beings were part of the project.

For “Running the National Intervention-Consultative Centre (KCIK) for Polish and Foreign Victims of Human Trafficking”, a task commissioned by the Minister of the Interior, PLN 778 000 was allocated for 2012. Some 198 supposed victims of human trafficking took advantage in 2012 of a direct assistance of the Running the National

97. More in the third Chapter of this document.

98. More on the PL EMN NCP website.

Intervention-Consultative Centre. Broader scope of assistance expected by victims is noticeable, specifically in case of victims from Asia and Africa. The executed tasks also included preventive counselling and a number of prophylactic meetings. Consultations for institutions also played an important role. The year 2012 saw the expansion of the task formula and from 1 January 2013, on the territory of Poland two professional shelters for Polish and foreign victims of human trafficking have been operating. The task is carried out by Immaculate Conception of the Blessed Virgin Mary Po MOC Association for Women and Children and by La Strada Foundation against Human Trafficking and Slavery.

A report entitled “*Preventing Human Trafficking in Poland. Materials for the Period 2009-2011*” was published in 2012. The report presents statistical data and a description of the phenomenon, as well as extensive fragments of analyses commissioned in 2011 by the Ministry of the Interior.⁹⁹

A complicated system of training has been in use in Poland. In 2012, in training participated, among others, representatives of Police (training implemented in 2003), Border Guard (training carried out since 2006, in 2011 a 4-grade comprehensive training system was implemented), prosecutors, probation officers and judges (training since 2003), employees of voivodship offices, labour inspectors (since 2010, two trainings per year), consular staff (Polish Consuls are trained under consular service, since 2010 training has been organised for third country consular staff), school teachers (since 2009, in 2012 alone some 500 school teachers and pedagogues were trained), employees of the Office for Foreigners conducting interviews with asylum seek-

ers and working at centres for foreign asylum seekers in the field of the identification of human trafficking victims (since 2002, almost 400 persons), employees of employment agencies, social workers (since 2008, more than 400 persons), employees of care and educational centres (app. 50 persons), trade unions (since 2010), training for non-governmental organisations is run in cycles (for those that provide direct assistance, run help lines or exercise social supervision over the observance of human rights). A comprehensive educational and information activity addressed to school youth is carried out. In 2013, plans provide for including representatives of the health care in the system of training.

In 2012, Poland cooperated with international organisations dealing with human trafficking. On 26 October 2011, an *Agreement between the Minister of the Interior of the Republic of Poland and International Organisation for Migration on Cooperation in the Voluntary Returns of Foreign Nationals Leaving the Territory of the Republic of Poland drawn up in Warsaw on 12 July 2005*, expanding former cooperation between the Minister and IOM in the field of assistance in the voluntary returns of foreign nationals leaving the territory of the Republic of Poland was signed. In the light of the Agreement, all foreign victims of human trafficking as well as European Union Member-States nationals can take advantage of voluntary return.

Legislation works on the new bill on foreigners should be mentioned in the context of the planned facilitations in the legalisation of stay of human trafficking victims. Additionally, the bill takes into consideration provisions of *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims* (OJ L 101, of 15.4.2011). The bill provides for the simplification of a procedure regulating the legalisation of stay of foreign nationals that are most likely the

99. The report is also available on the Polish website of the European Migration Network http://www.emn.gov.pl/portala/esm/714/10113/Raport_MSW_dotyczacy_zapobiegania_handlowi_ludzmi_w_Polsce.html?search=849632.

victims of human trafficking. They are allotted time for reflection and recovery when they can avoid the influence of the perpetrators. Presently, applicable provisions of law anticipate that during the above-mentioned period, a permit for residence is issued to a human trafficking victim for a fixed period of time limit of 3 months at the longest. According to applicable provisions, a foreigner is obliged to file an appropriate application to a voivode, who then will conduct administrative proceedings in order to legalise a foreign national's stay in Poland. The proposed solution simplifies a procedure of the legalisation of stay of a foreign national that is most likely a human trafficking victim and provides for the fact that during the time to reflect, the foreigner's stay is regarded as legal by virtue of law. Such foreigner will be granted a certificate valid for two months confirming that he is most likely a human trafficking victim for the purpose of art. 115 § 22 *Criminal Code*. During the time specified in the certificate, the stay of a foreign national in Poland shall be considered legal.

The proposed provisions of law anticipate that after the elapse of time to reflect, a foreigner will be granted a temporary residence permit if a foreigner instigated cooperation with a body competent for proceedings on combating human trafficking and severed relations with individuals suspected for committing an offence or connected with human trafficking. Similar solution operates under the *Act on foreigners*. Applicable provisions provide for an option of applying for a permit only for further 6 months. According to the proposed regulation, a permit will be granted for 3 years. The bill anticipates for a possibility of issuing a Polish ID to a foreigner, who is considered as a likely victim of human trafficking if such a foreigner is staying on the territory of the Republic of Poland without a valid travel document, has entered into a cooperation with a body competent for proceedings on combating human traffick-

ing and obtaining another document confirming his identity is impossible.

Furthermore, in the context of protection of human trafficking victims, the proposed provisions introduce the following regulations:

- a possibility to obtain a permanent residence permit if a foreigner being a human trafficking victim has been staying on the territory of Poland for at least 2 years, has been cooperating with law enforcement authorities and, among others, his fear of coming back to his country of origin is substantiated;
- a possibility to apply by human trafficking victims for assistance in voluntary return.

In 2012, an additional analysis of consistency of the Polish legal system with obligations under *Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims replacing Council Framework Decision 2002/629/JHA*¹⁰⁰ was performed. The consistency of Polish law was examined, among others, with the extended definition of human trafficking and protection of human trafficking victims and it was stated that in principle, Polish law complies with the obligations under the Directive. In order to ensure complete consistency of Polish law with regulations included in the Directive Bill amending the *Criminal Code*, *Code of Criminal Procedure* and some other Acts was prepared. The bill anticipates, among others, the amendments to art. 185a and art. 147 of the *Code of Criminal Procedure* referring to the procedure of examining the injured minors. Parliamentary works on the bill will continue in 2013.¹⁰¹

100. The date for the implementation of the Directive is set on 6 April 2013.

101. Single hearing of a minor by the court (during a penal trial) with the participation of a psychologist is a concept of applicable regulations. Moreo-

Under the works of Inter Ministerial Group on Combating and Preventing Human Trafficking, the need for the new Algorithm¹⁰² aimed at improving the effectiveness in the identification of human trafficking victims was noted. This task was scheduled under the *National Action Plan against Human Trafficking for 2011 – 2012*. The undertaking has not been completed and will continue in 2013. The shift of the task's deadline relates to the planned amendment of provisions of the *Act on foreigners*. The developed Algorithm is to correspond to the planned amendments. Thus, pursuant to the content of the proposed provisions, foreign nationals considered human trafficking victims for the purpose of art. 115 § 22 of the *Criminal Code*, are eligible to a 2-month time to reflect. In course of that period, their stay is considered as legal. The body competent for conducting proceedings on combating human trafficking will be obligated to issue to a foreigner an appropriate certificate confirming his

legal status of stay on the territory of Poland. The proposed provisions envisage the simplification of the procedure regulating the status of stay during the time to reflect. Until now, applicable law has anticipated that if a foreigner wants to take advantage of the time to reflect he is obligated to lodge an appropriate application to a voivode, who carries out administrative proceedings in order to legalise the foreigner's stay.

Furthermore, the Border Guard participates in pilot programmes in selected voivodeships, oriented at combating and prevention of trafficking in minors. Pilot projects concerning minor victims of human trafficking include four voivodeships: Mazovian Voivodeship, Łódzkie Voivodeship, Małopolskie Voivodeship, and West Pomerania Voivodeship. Under these missions, working documents, sort of guidelines concerning the identification, rules, and procedures in case of revealing a minor victim have been developed. Care establishments have been selected for placing minor victims (in cooperation with the Border Guard, educational staff of the establishment undergoes training). Cases of crossing the Poland's border by unaccompanied minors are analysed. It has been pointed out that while performing official activities, Border Guard officers must pay special attention to minors who, due to their age, may not be aware that they are victims of human trafficking, hence, they are not identifying themselves as victims.

In order to improve the effectiveness of Border Guard's activity in terms of detecting the crime of human trafficking and prosecution of this crime, it is reasonable to introduce to the *Act on the Border Guard* a provision that will allow to directly prevent, detect, and recognise criminal cases of this sort. Furthermore, it is reasonable to enter art. 189a of the *Criminal Code* in the catalogue of crimes the perpetrators of which can be subjected to offensive operational and investigative methods consist-

ver, during proceedings, an audio-video recording may be used which is then played in open court. In practice, such hearing takes place in the so-called child friendly hearing room, where a child acting as a witness feels comfortable due to the proper interior arrangement, appropriate equipment, and colours. Such rooms are available at the Nobody's Children Foundation. Prosecution and justice authorities cooperate with the Foundation in this area (similar rooms are also at the Police units). The above is executed under the Programme protecting children participating in legal procedures "The Child as a Witness – under Special Care". The objective of the programme is to improve a situation of children participating in legal procedures, such as court trial, interrogation by a prosecutor or police. The programme is addressed to judges, police officers, prosecutors, lawyers, and other specialists dealing with the assistance offered to a child and family and to representatives of local and central authorities.

An idea of changes is specifically targeted at broadening the catalogue of crimes (among others, by human trafficking) when such procedure can be applied if any of crimes from the catalogue has been committed.

102. *Algorithm of Conduct of Law Enforcement Officers in Case of Revealing a Crime Consisting in Trafficking in Human Beings* in a subsidiary tool specifying actions that an officer undertakes in case of revealing a human trafficking victim. The Algorithm systemizes proceedings strictly concerning the human trafficking victims in the process of identification and assistance granted in the territory of Poland while at the same time, a law enforcement officer undertakes activities leading to penal proceedings.

ing, in principle, in exercising operational control, controlled purchase and controlled classified delivery.

The need to introduce the above-mentioned legal changes was reflected in the participation of the Border Guard in a project implemented by the University of Warsaw Human Trafficking Studies Centre, Border Guard Main Training Centre in Koszalin and Operational-Investigative Management of the Border Guard called "Filling the Gaps in the System of Combating Human Trafficking in Poland- FIGAS". A substantial grant from the European Commission has been assigned for the project. The project will also help to include in the Border Guard's jurisdiction *ratione materiae* the prosecution of crime of human trafficking.

Under the preparations to EURO 2012, the Border Guard participated in prevention activities aimed at preparing the Border Guard officers to the identification of possible human trafficking victims that may occur during the event as well as at developing information campaign addressed to society oriented at pointing out threats related to trafficking in human beings. The Border Guard specifically participated in the preparations and implementation of information & educational campaign on potential threats to children and young people such as commercial sexual abuse, children's prostitution or human trafficking during the EURO 2012.

8

Migration and Development Policy



One of important initiatives aimed at supporting migration and development was signing in 2012 by the President of the Republic of Poland an *Act of 16 November 2012 on reducing some administrative burdens in economy* drafted by the Ministry of Economy. The purpose of the Act is to improve conditions for carrying out business activity in Poland also by foreigners. It is specifically to contribute to reducing chain blockages in payments and redundancy in information-related obligations. The Act introduces, among others, simplifications in tax regime and provisions contributing to more confident performance of the entrepreneurs due to transparent interpretation provided by the authorities. The Act, whose provisions came into force as of 1 January 2013, also contributes to better transparency in public administration.¹⁰³ The *Act of 16 November 2012 on reducing some administrative burdens in economy* is a third legal act of general deregulatory character prepared by the Minister of Economy during the last two years. In 2011, the following Acts came into effect:

- *Act of 25 March 2011 on reducing administrative barriers for citizens and business* (Journal of Laws No. 106, item 622);

- *Act of 16 September 2011 on reducing some duties of citizens and business* (Journal of Laws No. 232, item 1378).

Currently, the Ministry of Economy works on further projects of deregulatory character – assumptions to the bill on facilitating conditions of carrying out business activity and assumptions to the bill on standardisation of some specimen documents in administrative procedures. Last year, Single Contact Point set up by the Ministry of Economy on 28 December 2009 upon the so-called *Services Directive*¹⁰⁴ and the *Act on the Freedom of Economic Activity of 2 July 2004*¹⁰⁵ continued its operations. Through the website of Single Entry Point (<http://www.eu-go.gov.pl/pl/dla-przedsiobiorcy/procedury/procedura/721/323/>) an entrepreneur and a natural person can find detailed information on economic activity such as appropriate provisions of law, contacts to bodies implementing the procedure and detailed instructions, for instance, on procedures of recognition of professional qualifications. Single Contact Point (SEP) provides information concerning, among others, official procedures relating to business activity in Poland; contact data and power of public bodies and offices; ways and terms and conditions of access

103. Journal of Laws of 2012, item 1342.

104. http://ec.europa.eu/internal_market/services/services-dir/index_en.htm.

105. Journal of Laws of 2004 No. 173, item 1807 as subsequently amended <http://isap.sejm.gov.pl/DetailsServlet?id=WDU20041731807>.

to public registers and database concerning entrepreneurs. The Polish Single Entry Point is formed under the “Simplification of Procedures Related to the Conduct and Setting up New Businesses through their Digitalisation and Implementation of “One Stop Shop (UEPA)” implemented under the *Human Capital Operational Programme for 2007-2013*.

Under the international cooperation, Poland participated in a number of activities among which the project called “Support for the Implementation of the Prague Process and its Action Plan” and the Prague Process is worthwhile to be mentioned. On 2 August 2012, the Minister of the Interior signed an agreement with the European Commission for “Support for the Implementation of the Prague Process and its Action Plan” (PP TI) project to be implemented by the end of 2015. Currently, it is the most important initiative implementing Prague Process Action Plan 2012–2016 approved by ministers during the “II Ministerial Conference of the Prague Process – Building Partnerships in Action” (Poznań, 3 November 2011 during the Polish Presidency of the Council of the European Union). ICMPD (International Centre for Migration Policy Development) operates as the Process Secretariat. Poland (the Ministry of the Interior) is responsible for overall supervision of the project execution and for the implementation of the pilot project concerning illegal migration. The following countries are Polish partners under the project: Czech, Germany, Romania, Slovakia, Sweden, and Hungary. During the first four months of the project execution, the process of forming the PP TI team (under ICMPD structures) was completed, workshop opening particular pilot projects was organised and works on internet website of the Prague Process started. A project action plan for 2013 including a list of over twenty activities was developed. The project envisages the accomplishment of three goals: **1)** development of contact points of the Prague Process and organisation of Senior Official

Meetings (SOM), and a support for the secretariat of Eastern Partnership Panel for Asylum and Migration; **2)** the development of the so-called Building Migration Partnerships Project Knowledge Base (internet map of migratory routes and profiles¹⁰⁶); **3)** execution of four pilot projects.

Under goal 3, four pilot projects are carried out: **1)** PP1 – concerning illegal migration headed by Poland with support of Slovakia and Romania, **2)** PP2 – concerning legal migration headed by Hungary, **3)** PP3 – concerning migration and development headed by the Czech Republic, and **4)** PP4 – concerning asylum and international protection headed by Sweden and Germany.

Under PP TI project, the Secretariat of Eastern Partnership Panel for Asylum and Migration that in 2012 organised two meetings is co-financed. The first one from 10–11 September 2012 in Bucharest and the other one from 18–19 October 2012 in Chisinau – the meeting was dedicated to circulation migration and was co-organised by Poland¹⁰⁷ and Moldova.

On 20 November 2012, on Poland’s initiative was organised the first meeting of the so-called Prague Process *Core Group*.¹⁰⁸ In a Warsaw meeting, the representatives of the following states took part: Armenia, Azerbaijan, Belarus, Bulgaria, Czech, Georgia, Kosovo, Macedonia, Moldova, Germa-

106. In August 2012, works on the migration profile version were initiated, whose first version was submitted to the members of the Steering Committee in November 2012 and initially discussed during a meeting in Brussels on 26 November 2012. Currently, after a submission of remarks, changes to the proposed template are under consideration; the profile is to be presented during a meeting of experts in Florence (2013).

107. In the meeting also participated the European Migration Network National Contact Point in Poland (PL EMN NCP) that presented the most important information on EMN synthetic report on circular and temporary migration in the EU Member-States and a report of the national contact point on the above subject.

108. *Core Group* institution, advisory bodies for high-level officials was introduced to the structure implementing the Prague Process under the Prague Process Action Plan 2012–2016.

ny, Poland, Russia, Serbia, Slovakia, Sweden, and Hungary (16 states including the EU Member-States and 9 states outside the European Union). During the meeting, its participants agreed on the overall development trends of the Prague Process proposed in the document (including an organisation of the ministerial conference in 2014 in an EU Member-State – initially, the willingness to consider the organisation of the conference was demonstrated by Azerbaijan, Georgia and Moldova). It should be underlined that the participants of the meeting upheld their interest in discussing issues relating to the current migratory situation in the Process states during the Senior Official Meeting; it was also proposed to discuss the problem of visa regime liberalisation for the Western Balkan states in the context of increased number of applications for the refugee status filed by nationals from these states on the territories of the European Union (mainly Belgium and Luxemburg).

Following the implementation of the demands of both the draft entitled “Support for the Implementation of the Prague Process and its Action Plan” and the Prague Process, it is worth noting a strong commitment of the Eastern Partnership countries (see among others, statements regarding the organization of the Conference of Ministers) and Russia. The key to strengthening cooperation with third countries in the emergence of the state ready to host the Prague Process Ministerial Conference in 2014

In addition, in 2012 the Ministry of the Interior implemented additional projects funded under the Polish foreign aid for 2012, i.e. the development aid:

- Project entitled “*Strengthening the potential of Ukrainian migration services for managing the reception of persons seeking international protection*”, implemented under the Polish development aid for 2012 jointly with the Office for Foreigners.

- Project entitled “*Strengthening the potential of Ukrainian administration for an efficient cooperation with the European Union in the field of migration. Legal and practical aspects of intra- and interinstitutional cooperation*”.
- Twinning project „*Support the State Migration Service for Strengthening of Migration Management in Armenia*” implemented by a Swedish–Polish consortium. The Polish Ministry of the Interior and cooperating institutions (the Office for Foreigners, the Border Guard) are responsible for the analysis of the existing Armenian law on foreigners and for developing guidelines to ensure alignment of Armenian legislation with the EU law and to eliminate any legal loopholes.
- Project entitled “*Polish-Ukrainian Cooperation for Combating and Preventing Trafficking in Human Beings provides for a continuation and an extension of Polish-Ukrainian actions for combating and preventing trafficking in human beings started in 2011*”.¹⁰⁹

In this context, a regulation of the Council of Ministers on 20 March 2012 No. 37/2012 on establishing a Multiannual Development Cooperation Programme for 2012–2015 based on the Act which was adopted in September 2011 on the development cooperation should be stressed.¹¹⁰ According to guidelines included in the programme, in 2012 – 2015, Poland will finance activities aimed at the support of democracy and respect of human rights. In 2012–2015, Poland will specifically address its assistance to the following two groups of priority states:

- Eastern Partnership Member-States (Azerbaijan, Belarus, Georgia, Moldova and Ukraine) – Poland intends to contribute to changes in these states in

109. The projects include study visits and expert missions.

110. Journal of Laws of 2011 No. 234, item 1386.

favour of sustained and stable operation of democratic systems, observance of human rights and support of system transformation in order to bring the states of Eastern Europe and South Caucasus to the European Union.

- Countries in Africa, Asia and Middle East (Eastern Africa countries: Burundi, Ethiopia, Kenya, Ruanda, Somalia, South Sudan, Tanzania and Uganda; North Africa countries: Libya and Tunisia; Afghanistan, Kirgizstan, Tajikistan, and the Palestinian National Authority) – Poland intends to contribute to the reduction of poverty in these countries and support transformation processes that are taking place.

The involvement of the Ministry of the Interior in international projects concerning migration issues (GOVAC/REVIS) coordinated by International Center for Migration Policy Development (ICMPD) and addressed to such countries as Georgia or Moldova (project „Building training and analytical capacities on migration in Moldova and Georgia”) also needs to be noted.

9

Implementation of UE Legislation



9.1. Transposition of EU legislation in 2012

The following list contains information about ongoing in 2012 legislative work related to the implementation into national law EU legislation.

Table 4. Transposition of EU legislation in 2012

EU law (in English)	EU law (in Polish)	Implementation measure
Regulation (EU) No. 1342/2011 of the European Parliament and of the Council of 13 December 2011 amending Regulation (EC) No. 1931/2006 as regards the inclusion of the Kaliningrad oblast and certain Polish administrative districts in the eligible border area	Rozporządzenie Parlamentu Europejskiego i Rady (UE) nr 1342/2011 z dnia 13 grudnia 2011 r. w sprawie zmiany rozporządzenia (WE) nr 1931/2006 w odniesieniu do włączenia obwodu kaliningradzkiego i niektórych powiatów polskich do obszaru uznawanego za strefę przygraniczną	On 14 May 2012 the Act 16 March 2012 on the ratification of the Agreement between the Government of the Republic of Poland and the Government of the Russian Federation on local border traffic (LBT) entered into force
Directive 2011/93/EU of the European Parliament and of the Council of 13 December 2011 on combating the sexual abuse and sexual exploitation of children and child pornography, and replacing Council Framework Decision 2004/68/JHA (corrigendum)	Dyrektywa Parlamentu Europejskiego i Rady 2011/93/UE z dnia 13 grudnia 2011 r. w sprawie zwalczania niegodziwego traktowania w celach seksualnych i wykorzystywania seksualnego dzieci oraz pornografii dziecięcej, zastępująca decyzję ramową Rady 2004/68/WSiSW	Will be implemented into national legal order through an amendment to the Penal Code and the Code of Penal Procedure (text under preparation, the draft Act of 22 November 2012 is being discussed)
Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA	Dyrektywa Parlamentu Europejskiego i Rady 2011/36/UE z dnia 5 kwietnia 2011 roku w sprawie zapobiegania handlowi ludźmi i zwalczania tego procederu oraz ochrony ofiar, zastępująca decyzję ramową Rady 2002/629/WSiSW	Will be implemented into national legal order through an amendment to the Penal Code and the Code of Penal Procedure (text under preparation, the draft Act of 22 November 2012 is being discussed)
Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third-country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State	Dyrektywa Parlamentu Europejskiego i Rady 2011/98/UE z dnia 13 grudnia 2011 roku w sprawie jednolitej procedury wnioskowania o jednolite zezwolenie na pracę i pobyt na terytorium państwa członkowskiego UE dla obywateli państw trzecich oraz w sprawie zakresu praw pracowników z państw trzecich legalnie przebywających w państwie członkowskim UE	Will be implemented into national legal order through the new Act on Foreigners (text under preparation)

EU law (in English)	EU law (in Polish)	Implementation measure
Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection	Dyrektywa Parlamentu Europejskiego i Rady 2011/51/WE z dnia 11 maja 2011 roku zmieniająca dyrektywę Rady 2003/109/WE w celu rozszerzenia jej zakresu na osoby objęte ochroną międzynarodową	Will be implemented into national legal order with the new Act on Foreigners (text under preparation)
Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals	Dyrektywa Parlamentu Europejskiego i Rady 2008/115/WE z dnia 16 grudnia 2008 r. w sprawie wspólnych norm i procedur stosowanych przez państwa członkowskie w odniesieniu do powrotów nielegalnie przebywających obywateli państw trzecich	Act of 27 April 2012 amending the Act on foreigners and the Act on promotion of employment and labour market institutions (Journal of Laws of 28 May 2012, item 589) that entered into force on 12 June 2012
Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals	Dyrektywa Parlamentu Europejskiego i Rady 2009/52/WE z dnia 18 czerwca 2009 r. przewidująca minimalne normy w odniesieniu do kar i środków stosowanych wobec pracodawców zatrudniających nielegalnie przebywających obywateli krajów trzecich	Act of 15 June 2012 on the effects to employ foreigners staying illegally on the territory of the Republic of Poland, that entered into force on 21 July 2012
Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment	Dyrektywa Rady 2009/50/WE z dnia 25 maja 2009 r. w sprawie warunków wjazdu i pobytu obywateli państw trzecich w celu podjęcia pracy w zawodzie wymagającym wysokich kwalifikacji	<i>Act of 27 April 2012 amending the Act on foreigners and the Act on promotion of employment and labour market institutions (Journal of Laws of 28 May 2012, item 589) that entered into force on 12 June 2012</i>
Directive 2009/52/EC of the European Parliament and of the Council of 18 June 2009 providing for minimum standards on sanctions and measures against employers of illegally staying third-country nationals	Dyrektywa Parlamentu Europejskiego i Rady 2009/52/WE z dnia 18 czerwca 2009 r. przewidująca minimalne normy w odniesieniu do kar i środków stosowanych wobec pracodawców zatrudniających nielegalnie przebywających obywateli krajów trzecich	<i>Act of 15 June 2012 on the effects to employ foreigners staying illegally on the territory of the Republic of Poland, that entered into force on 21 July 2012</i>
Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment	Dyrektywa Rady 2009/50/WE z dnia 25 maja 2009 r. w sprawie warunków wjazdu i pobytu obywateli państw trzecich w celu podjęcia pracy w zawodzie wymagającym wysokich kwalifikacji	<i>Act of 27 April 2012 amending the Act on foreigners and the Act on promotion of employment and labour market institutions (Journal of Laws of 28 May 2012, item 589) that entered into force on 12 June 2012</i>

Source: PL EMN NCP

◇ Methodology

This policy report was compiled on the basis of the information received from different authorities in the field of asylum and migration, such as the Office for Foreigners, Border Guard, Ministry of Foreign Affairs, Ministry of Labour and Social Policy and National Labour Inspectorate which played an important role while elaborating the final document.

Topics for this report were selected and weighted according to their relevance to the work of political decision-makers at both the national and the European level. The paper is also based on numerous sources of data and information. This includes:

- legislation published in the Official Journal of Laws and draft documents subjected to public consultations,
- various reports, such as the reports of the Border Guard, Unit for Trafficking Human Beings at the Ministry of the Interior, Ministry of Foreign Affairs, etc.
- reports and other materials prepared by public institutions taking part in the preparation to and further development of activities in the field of asylum and migration implemented during Polish presidency to the EU Council,
- press releases of NGOs and non-profit organisations assisting asylum seekers or defending the fundamental rights of foreigners,
- printed papers and minutes of plenary meetings of the two chambers of parliament (Sejm and Senat),
- press articles, especially when the information could be cross-checked through other types of sources.

The figures and statistics included in this report were provided by the Office for Foreigners, Border Guard, Department for Citizenship and Repatriation of the Ministry of the Interior, National Labour Inspectorate and Warsaw Bureau of the International Organisation for Migration (IOM).

To ensure better understanding of the matters contained in the report, please read also the 2011 or 2010 Policy Report available at the website of the European Migration Network (<http://emn.intrasoft-intl.com/Downloads/prepareShowFiles.do?entryTitle=1%2E%20Annual%20Policy%20Reports>) or at the website of the EMN National Contact Point in Poland (http://emn.gov.pl/portal/esm/713/Publikacje_Krajowego_Punktu_Kontaktowego_ESM.html).

◇ Terms and definitions

For the sake of clarity, the basic definitions of notions such as legal migration, illegal migration, global approach to migration, family reunification, international protection and unaccompanied minor have the same meaning as those defined in the EMN's Glossary of terms,¹¹¹ unless otherwise specified. Readers should remember that many Polish acts and/or ordinances refer directly to the definitions of terms provided by EU decisions, directives or other documents due to implementation of EU legal solutions in the area of migration and asylum.

¹¹¹ Definitions of terms can be found at the EMN's website (<http://emn.intrasoft-intl.com/Glossary/index.do>) and at the website of the Polish National Contact Point to the EMN (<http://www.emn.gov.pl>).

Table 5. Mini dictionary

Polish	English
zezwolenie na zamieszkanie na czas oznaczony	residence permit for a fixed period of time
zezwolenie na pobyt rezydenta długoterminowego UE	long-term EU resident's residence permit
zezwolenie na osiedlenie się	permit to settle
wiza	visa
Karta Polaka	the Card of the Pole
abolicja/regularyzacja	regularization programme
cudzoziemiec	foreigner
obywatel państwa trzeciego	third country national
wydalenie	expulsion
zatrzymanie	apprehension
ustawa o cudzoziemcach	Act on Foreigners
dobrowolne powroty	voluntary returns
powroty przymusowe	forced returns
wspomagane dobrowolne powroty	assisted voluntary returns
azyl	asylum
status uchodźcy	refugee status
ochrona międzynarodowa	international protection
migracje legalne	legal migrations
migracje nielegalne	illegal migrations
cudzoziemiec o nieuregulowanym statusie pobytowym	irregular migrant / foreigner whose stay on the territory is irregular
ośrodek strzeżony dla cudzoziemców	guarded centers for foreigners
areszt w celu wydalenia	arrest for the purpose of expulsion

Source: PL EMN NCP

Annex 2. National statistics

Legal migration

Table 6. Number of valid on the territory of Poland foreigners' residents cards issued as of 31 December 2012

CITIZENSHIP	SUBSIDIARY PROTECTION	PERMIT TO SETTLE	LONG-TERM EU RESIDENT'S RESIDENCE PERMIT	TOLERATED STAY	REFUGEE STATUS	RESIDENCE PERMIT FOR A FIXED PERIOD	TOTAL
AFGANISTAN	17	29	2	-	13	76	137
ALBANIA	-	52	9	-	-	116	177
ALGERIA	-	288	13	2	1	221	525
ANGOLA	-	23	1	4	-	87	115
SAUDI ARABIA	-	2	-	-	-	274	276
ARGENTINA	-	31	2	-	-	60	93
ARMENIA	13	1696	503	94	2	2279	4587
AUSTRALIA	-	81	3	-	-	128	212
AUSTRIA	-	176	-	-	-	-	176
AZERBAIJAN	3	110	18	1	4	141	277
BANGLADESH	2	35	6	3	1	157	204
BELGIUM	-	57	-	-	-	-	57
BELIZE	-	1	-	-	-	-	1
BENIN	-	-	-	-	-	6	6
STATELESS	3	571	10	9	6	134	733
BHUTAN	-	-	-	-	1	1	2
BELARUS	12	6305	305	16	96	3576	10310
BOLIVIA	-	25	1	-	-	16	42
BOSNIA-HERZEGOVINA	-	95	10	-	4	47	156
BOTSWANA	-	1	-	-	-	1	2
BRAZIL	-	80	8	-	-	222	310
BRUNEI	-	-	-	-	-	1	1
BULGARIA	-	761	8	-	-	-	769
BURKINA FASO	-	1	1	-	-	6	8
BURUNDI	-	3	-	-	-	5	8
CHILE	-	24	1	-	-	35	60
CHINA	6	520	144	5	-	3814	4489
CROATIA	-	174	14	-	-	148	336
CYPRUS	-	13	-	-	-	1	14
CZAD	-	-	-	-	-	3	3

Table 6. Number of valid on the territory of Poland foreigners' residents cards issued as of 31 December 2012 (continued)

CITIZENSHIP	SUBSIDIARY PROTECTION	PERMIT TO SETTLE	LONG-TERM EU RESIDENT'S RESIDENCE PERMIT	TOLERATED STAY	REFUGEE STATUS	RESIDENCE PERMIT FOR A FIXED PERIOD	TOTAL
MONTENEGRO	-	21	4	-	-	22	47
CZECH REPUBLIC	-	456	-	-	-	-	456
DENMARK	-	54	-	-	-	-	54
DEMOCRATIC REPUBLIC OF THE CONGO	-	7	-	-	-	16	23
DOMINICAN REPUBLIC	-	5	-	-	-	21	26
DJIBOUTI	-	2	-	-	1	-	3
EGYPT	-	211	3	1	-	623	838
EQUADOR	-	23	1	-	-	26	50
ERITREA	1	1	-	-	-	12	14
ESTONIA	-	13	-	-	-	-	13
ETIOPIA	-	24	4	-	6	34	68
PHILLIPINS	-	48	20	2	-	238	308
FINLAND	-	25	-	-	-	-	25
FRANCE	-	254	-	-	-	-	254
GABON	-	4	-	-	-	-	4
GAMBIA	-	3	-	-	-	24	27
GHANA	-	13	2	-	-	48	63
GREECE	-	241	-	-	-	-	241
GEORGIA	2	189	23	24	-	301	539
GUJANA	-	1	-	-	-	1	2
GUATEMALA	-	6	-	1	-	12	19
GUINEA	-	15	2	-	-	23	40
GUINEA BISSAU	-	5	-	-	-	2	7
EQUATORIAL GUINEA	-	1	-	-	-	4	5
HAITI	-	3	-	-	-	14	17
SPAIN	-	70	-	-	-	-	70
HONDURAS	-	2	1	-	-	12	15
HONGKONG	-	2	1	-	-	15	18
INDIA	-	516	235	5	-	1633	2389
INDONESIA	-	38	3	-	-	88	129
IRAQ	25	107	12	2	45	264	455
IRAN	1	55	4	1	9	128	198
IRELAND	-	24	-	-	-	-	24

Table 6. Number of valid on the territory of Poland foreigners' residents cards issued as of 31 December 2012 (continued)

CITIZENSHIP	SUBSIDIARY PROTECTION	PERMIT TO SETTLE	LONG-TERM EU RESIDENT'S RESIDENCE PERMIT	TOLERATED STAY	REFUGEE STATUS	RESIDENCE PERMIT FOR A FIXED PERIOD	TOTAL
ICELAND	-	3	-	-	-	-	3
ISRAEL	-	55	19	-	-	185	259
JAMAICA	-	4	-	-	-	13	17
JAPAN	-	170	17	-	-	753	940
YEMEN	-	68	8	-	-	59	135
JORDAN	-	126	13	-	-	69	208
CAMBODIA	-	8	1	-	-	10	19
CAMERUN	-	37	4	1	-	151	193
CANADA	-	135	13	1	-	271	420
QATAR	-	1	-	-	-	-	1
KAZAKHSTAN	1	789	25	5	-	341	1161
KENYA	-	26	7	-	-	84	117
KYRGYZSTAN	-	40	2	-	-	36	78
COLUMBIA	-	40	4	-	-	96	140
COMOROS	-	-	-	-	-	2	2
CONGO	1	25	2	2	7	67	104
SOUTH COREA	-	52	81	-	-	1603	1736
NORTH COREA	-	-	1	-	-	253	254
KOSOVO	-	15	-	-	-	37	52
COSTA RICA	-	10	-	-	-	20	30
CUBA	1	41	2	-	3	79	126
KUWAIT	-	15	-	-	-	6	21
LAOS	-	12	-	-	4	5	21
LIBAN	1	134	9	-	3	82	229
LIBERIA	-	7	-	1	6	7	21
LIBIA	-	67	3	1	1	70	142
LITHUANIA	-	313	-	-	-	-	313
LUXEMBOURG	-	3	-	-	-	-	3
LATVIA	-	19	-	-	-	-	19
MACEDONIA	-	122	7	1	-	51	181
MADAGASCAR	-	12	-	-	-	12	24
MALAWI	-	-	-	-	-	5	5
MALAYSIA	-	10	2	-	-	163	175

Table 6. Number of valid on the territory of Poland foreigners' residents cards issued as of 31 December 2012 (continued)

CITIZENSHIP	SUBSIDIARY PROTECTION	PERMIT TO SETTLE	LONG-TERM EU RESIDENT'S RESIDENCE PERMIT	TOLERATED STAY	REFUGEE STATUS	RESIDENCE PERMIT FOR A FIXED PERIOD	TOTAL
MALI	-	16	4	-	-	14	34
MOROCCO	-	127	5	1	-	244	377
MAURETANIA	-	2	-	-	-	3	5
MAURITIUS	-	5	-	-	-	24	29
MEXICO	-	92	4	-	-	217	313
MOLDAVIA	1	307	55	5	-	472	840
MONGOLIA	-	378	100	13	1	431	923
MOZAMBIQUE	-	3	-	-	-	-	3
MYANMAR	-	1	-	-	-	14	15
NAMIBIA	-	2	-	-	-	1	3
NEPAL	-	27	18	2	2	437	486
NETHERLANDS	-	124	-	-	-	-	124
GERMANY	-	727	-	-	-	-	727
UNKNOWN	-	35	2	5	-	23	65
NIGER	-	-	-	-	-	1	1
NIGERIA	3	256	13	5	-	574	851
NICARAGUA	-	4	-	-	-	5	9
NORWAY	-	45	-	-	-	-	45
NEW ZELAND	-	17	-	-	-	47	64
PAKISTAN	1	92	5	8	2	268	376
PALESTINE	7	39	10	-	-	89	145
PANAMA	-	5	-	-	-	3	8
PARAGUAJ	-	-	-	-	-	5	5
PERU	-	88	3	1	-	54	146
PORTUGAL	-	8	-	-	-	-	8
SOUTH AFRICAN REPUBLIC	-	52	6	-	-	80	138
CENTRAL AFRICAN REPUBLIC	-	-	-	-	-	1	1
CAPE VERDE	-	1	-	-	-	-	1
RUSSIA	2216	4713	367	180	581	4306	12363
ROMANIA	-	167	-	1	-	-	168
RWANDA	-	4	-	-	3	13	20
SAINT VINCENT AND GRENADINES	-	-	-	-	-	1	1

Table 6. Number of valid on the territory of Poland foreigners' residents cards issued as of 31 December 2012 (continued)

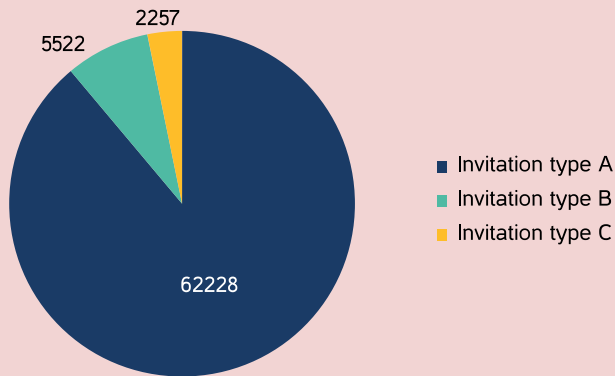
CITIZENSHIP	SUBSIDIARY PROTECTION	PERMIT TO SETTLE	LONG-TERM EU RESIDENT'S RESIDENCE PERMIT	TOLERATED STAY	REFUGEE STATUS	RESIDENCE PERMIT FOR A FIXED PERIOD	TOTAL
SALVADOR	-	2	-	-	-	12	14
SENEGAL	-	19	2	1	-	54	76
SERBIA	-	421	15	-	1	203	640
SEYCHELLES	-	-	-	-	-	1	1
SIERRA LEONE	-	17	-	1	1	10	29
SINGAPUR	-	12	-	-	-	19	31
SLOVAKIA	-	253	-	-	-	-	253
SLOVENIA	-	11	-	-	-	-	11
SOMALIA	2	18	-	-	5	24	49
SRI LANKA	23	36	-	1	11	54	125
UNITED STATES	-	795	87	-	-	1404	2286
SUDAN	4	30	2	8	3	21	68
SYRIA	5	225	45	1	6	320	602
SWITZERLAND	-	41	-	-	-	-	41
SWEDEN	-	301	-	-	-	-	301
TAJIKISTAN	-	10	3	-	-	56	69
THAILAND	-	30	10	-	-	212	252
TAIWAN	-	13	11	-	-	332	356
TANZANIA	-	23	1	1	-	28	53
TOGO	1	4	1	-	-	13	19
TRINIDAD AND TOBAGO	-	2	-	-	-	6	8
TUNISIA	-	204	9	1	-	567	781
TURKEY	9	516	230	2	10	1715	2482
TURKMENISTAN	-	29	1	-	3	55	88
UGANDA	-	6	-	-	1	14	21
UKRAINE	2	16329	1940	51	1	15980	34303
URUGUAY	-	7	-	-	-	7	14
UZBEKISTAN	5	110	11	4	1	234	365
VENEZUELA	-	34	5	-	-	48	87
HUNGARY	-	300	-	-	-	-	300
UNITED KINGDOM	-	249	-	-	-	-	249
VIETNAM	-	4302	1160	146	3	6085	11696
ITALY	-	253	-	-	-	-	253

Table 6. Number of valid on the territory of Poland foreigners' residents cards issued as of 31 December 2012 (continued)

CITIZENSHIP	SUBSIDIARY PROTECTION	PERMIT TO SETTLE	LONG-TERM EU RESIDENT'S RESIDENCE PERMIT	TOLERATED STAY	REFUGEE STATUS	RESIDENCE PERMIT FOR A FIXED PERIOD	TOTAL
COTE D'IVOIRE	-	5	-	-	-	12	17
SAO TOME AND PRINCIPE	-	1	-	-	-	1	2
ZAMBIA	-	7	-	-	-	7	14
ZIMBABWE	1	3	3	-	1	36	44
UNITED ARAB EMIRATES	-	1	-	-	-	-	1
TOTAL	2369	47908	5722	620	849	54503	111971

Source: Office for Foreigners

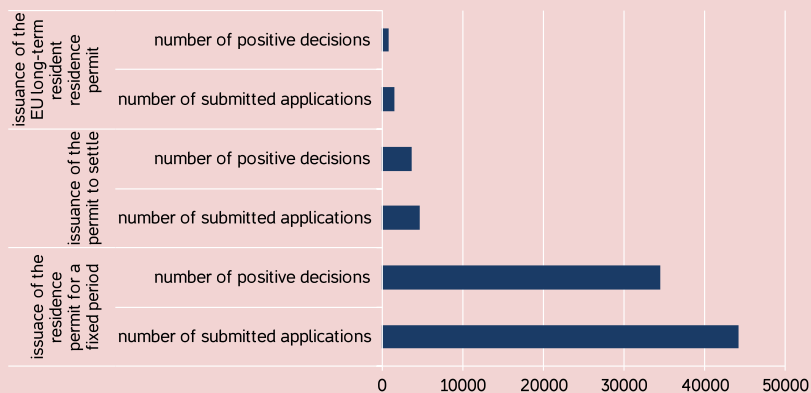
Chart 7. Number of invitations for foreigner issued in 2012



Source: Office for Foreigners

* A – Invitations issued by a Polish citizen; B - Invitations issued by a foreign national residing legally and continuously on the territory of the Republic of Poland for at least 5 years; C - Invitations issued by a legal person or organisational unit without legal personality established in the territory of the Republic of Poland.

Chart 8. Legalization of stay of foreigners in Poland in 2013 - selected residence permits



Source: Office for Foreigners

In 2012, some 7 433 of EU citizens lodged applications for the registration of stay on the territory of the Republic of Poland and 844 filed applications for the issuance of a document confirming the permanent residence right. The number of foreign national family

members from the EU, who in 2012 applied for the issuance of the residence card for a EU citizen family member amounted to 153 persons. An application for the permanent residence card of the EU citizen family member filed 16 persons.

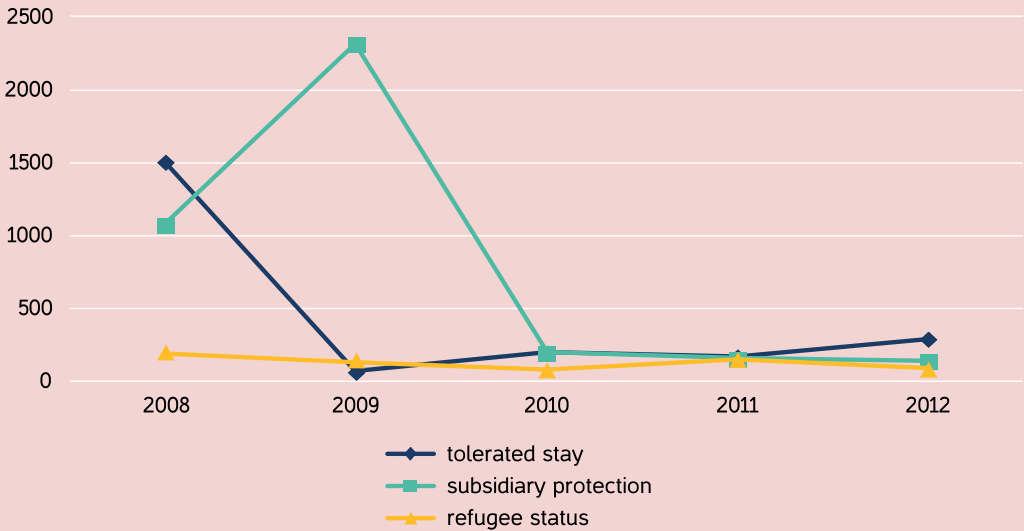
International protection

Table 7. Number of application for granting refugee status submitted in 2012

Citizenship	1.01-31.12.12		
	First applications	Subsequent applications	All applications
Russia	4 934	1 150	6 084
Georgia	2 956	278	3 234
Armenia	380	33	413
Kazakhstan	120	1	121
others	782	119	901
Total	9 172	1 581	10 753

Source: Office for Foreigners

Chart 9. Different forms of international protection granted in Poland between 2008-2012



Source: Office for Foreigners



Table 8. Number of decisions on granting refugee status in Poland issued in 2012

Citizenship	Refugee status	Subsidiary protection	Permit for tolerated stay	Negative decision	Discontinuance of proceedings
Russia	48	119	223	1 098	4 966
Georgia	-	-	23	468	2 921
Armenia	-	-	20	111	314
Egypt	-	-	-	13	68
Belarus	24	4	3	18	26
others	15	17	23	252	346
Total	87	140	292	1 960	8 641

Source: Office for Foreigners

Visas

- In 2012, Polish consulates issued 1 340 929 visas (increase by 14% comparing with 2011 – 1 173 582 visas).
- The biggest number of visas was issued in Ukraine (643 257 visas – increase by 13%, in Belarus (348 339, increase by 16% and in Russia (increase by 19%).
- Kazakhstan recorded a marked increase of visas (fourth place comparing with former seventh in a number of issued visas). In 2012, 13 452 visas were issued in Kazakhstan (increase by 89%).
- Next follows China (13 208, increase by 5%), Moldova (10 667, drop by 16%) and Turkey (9 864, increase by 2%).

Table 9. Number of National and Schengen visas issued in 2012

Type of visa	Schengen visas	National visas
Visas issued by Polish consuls	1064012	276917
Visas issued on the territory of Poland by Voivods	3027	156
Visas – total number	1067039	277073

Source: Office for Foreigners and Ministry of Foreign Affairs

- Proportion of Schengen visas (short-term) differs considerable depending on its type – in case of declarations entitling for the performance of work according to simplified procedure, Schengen visas account for 4.5% of the issued visas, in case of business activity – 99.5%, and in case of work permits only 1.2%.
 - and 07 – based on other documents; permits for work predominate, but also for foreigners exempted from the permit obligation) 196 047 visas were issued comparing with 209 577 in 2011 (drop by 6.5%).
- Counting all visas for the performance of work (that is 05 – declarations, 06 – drivers in international road transport
 - Visas issued in connection with carrying out business activity on the territory of Poland
 - In 2012, 268 951 visas were issued for carrying out business activity, which indicates increase by 10% comparing to 2011.

- The largest number of this type of visa were issued to foreign nationals from Ukraine (175.2 thousand – increase by 26%), Russia (37.7 thousand – increase by 4%), Belarus (35.9 thousand – drop by 25%), China (6.2 thousand – drop by 11%), India (2.8 thousand – increase by 18%), Turkey (2.3 thousand – increase by 6%), Uzbekistan (1.5 thousand – increase by 32%), Moldova (1.4 thousand – increase by 17%), Kazakhstan (1.3 thousand – increase by 36%) and Georgia (1.2 thousand – increase by 272%).

Visas issued based on the employer's statement on the employment of foreigners

- The number of visas issued due to the registration of the declaration increased for the nationals from Belarus (over double increase - from 2 210 to 4 436), Russia (increase from 495 to 909) and Georgia (from 402 to 466) whereas considerable drop was recorded in case of nationals from Ukraine (from 156.5 thousand to 138 thousand) and Moldova (from 6.6 to 4.8 thousand).
- In 2012, the ratio of the registered declarations to visas issued based on the declarations dropped from 64% to 61% (Ukraine: drop from 65% to 62%; Belarus increase from 51% to 58%; Russia increase from 51% to 56%; Moldova: the same - 50%; Georgia: increase from 23% to 34%). It means that the falling number of issued visas (by 11%) is larger than the number of registered declarations (by 6%). It is connected with an increase (from 11.6% to 12.7%) of a share of registered declarations for persons, who already have a visa or a permit for temporary stay on the territory of the Republic of Poland.

Visas issued in connection with carrying out in Poland the so-called other gainful activities

- In 2012, some 24 566 visas were issued on account of other gainful activities carried out in Poland based on work permits (in 2011, 21 156 were issued, indicating the increase by 16%),
- Some 18 686 (over 76% of the overall number of this type visas) were issued in Ukraine.
- The second ranking is Belarus (1 415 visas; 5.7%). The third to come is Uzbekistan, which is a substantial leap from the former place on the ranking list (659 visas; 2.7%), and next to follow is China (569 visas; 2.3%), Moldova (389 visas; 1.6%), Turkey (304 visas; 1.2%), India (292 visas; 1.2%), Russia (288 visas; 1.1%) and Croatia (261 visas; 1%).

Foreigners' employment

In 2012, voivodeships issued 39 144 work permits for foreigners. Comparing to 2011 with 40 808 issued visas it shows a drop by over 4%, whereas in 2012, the number of issued permits was still larger in particular years 2006-2010.

In 2012, the largest number of permits was issued to foreign nationals from Ukraine (51.85%), China (8.3%) and Vietnam (5.9%). High proportion of immigrants from these countries of origin has been maintained. Among the first ten, apart from the above-mentioned countries, are nationals from the following states: Belarus, India, Turkey, Uzbekistan, Russia, Moldova, and the Republic of South Korea.

Most of foreigners, who obtained work permit in 2012, found employment in construction (app. 20%) and wholesale and retail trade (app. 18%). Next to come are activities of households as employers, transport and storage, and accommodation and food

Chart 10. Work permits issued between 2006-2012

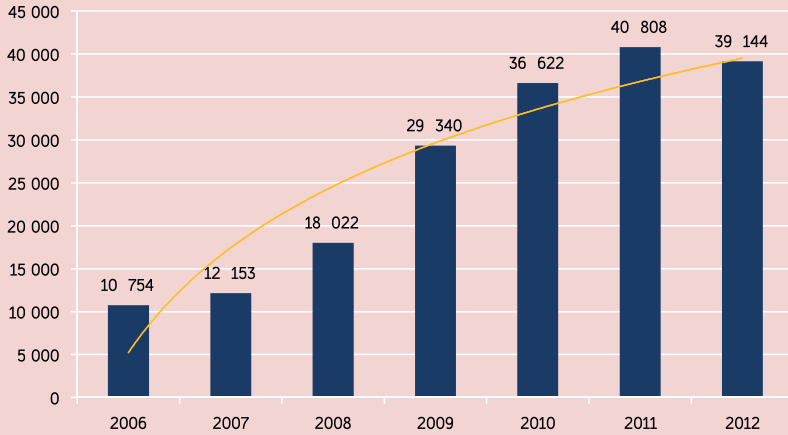


Chart 11. Work permits for foreigners according to PKD sections (Polish Classification of Economic Activities) in 2012

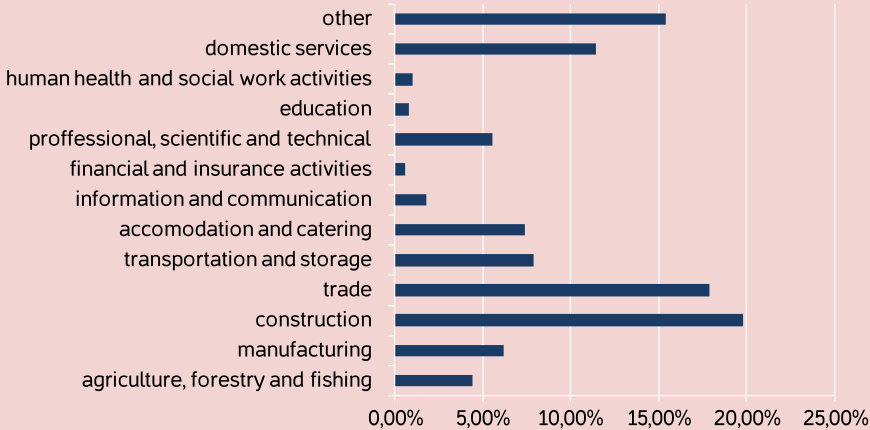
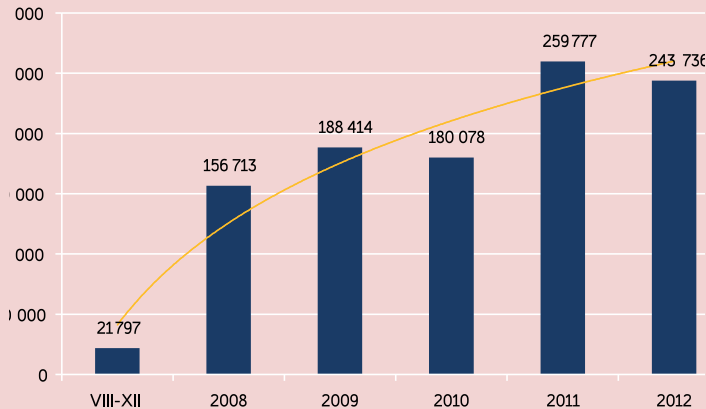


Chart 12. Number of employers declarations of the intention to entrust a job for a foreigner registered by the Poviats Labour Office (PUP) between 2007-2012



Source: Ministry of Labour and Social Policy

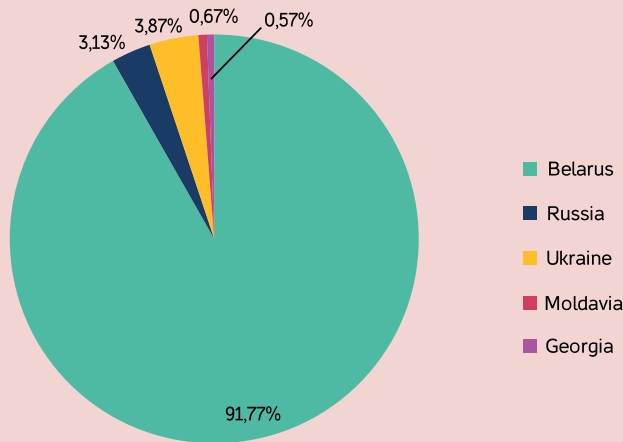
service activities. Some 15% of issued visas applied to the PKD (Polish Classification of Activities “Other”).

The number of declarations of the intention to entrust a job to a foreigner registered in the Poviats Labour Offices in 2012 amounted to 243 736 persons. A drop by over 6 % was recorded comparing to previous year. However, it was much higher than the number of declarations registered in the Poviats Labour Offices (PUP) in 2007-2010. The number of registered declarations is not the same as the number of foreigners taking up employment in Poland (main reasons are as follows: resignation of coming to Poland, denial of entry, arrival inconsistent with the content of the declaration of registration of 2 or more declarations for one foreigner).

In 2012, nationals from Ukraine were granted the largest number of declarations registered by PUP (over 90% of all declarations). Next on the list were nationals from Moldova, Belarus, Russia, and Georgia.

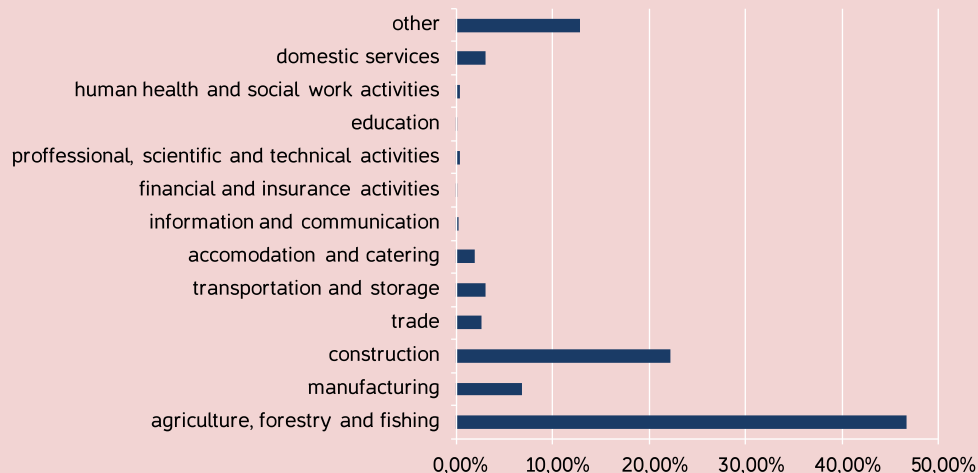
In 2012, the largest number of declarations of the intention to entrust a job to a foreigner concerned the employment in farming (app. 47%), construction (app. 22%), and manufacturing (6.7%). Next to follow were transport and storage, activities of households as employers, and wholesale and retail trade services. 12.7% of declarations were registered in PKD section “Other”.

Chart 13. Number of employers declarations registered by PUP, by a foreigner’s citizenship in 2012



Source: Ministry of Labour and Social Policy

Chart 14. Declaration on intention to entrust work to foreigner according to PKD sections (Polish Classification of Economic Activities) in 2012



Source: Ministry of Labour and Social Policy

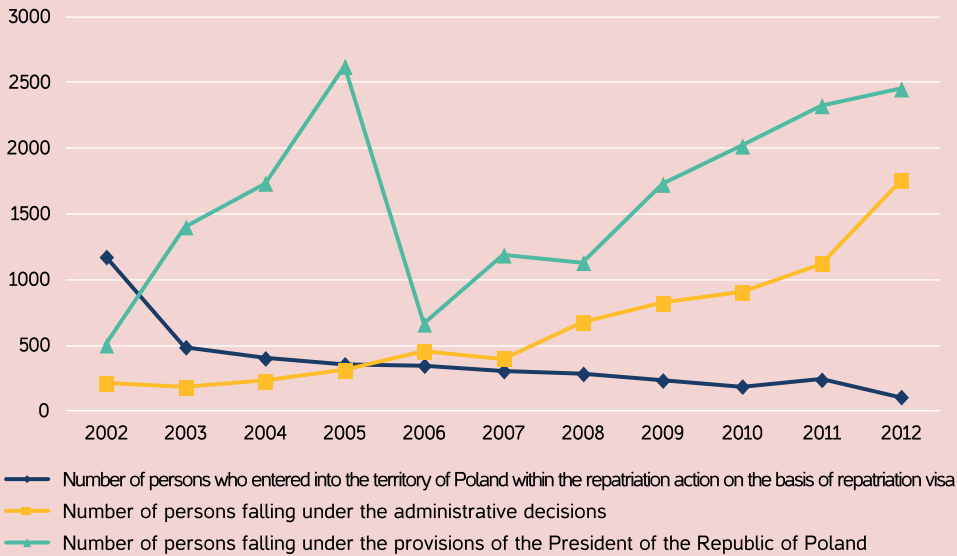
Polish citizenship

Table 10. Number of foreigners granted Polish citizenship between 2002-2012 and number of foreigners entered into the territory of Poland on the basis of repatriation visas

Year	Number of persons who entered into the territory of Poland within the repatriation action on the basis of repatriation visa	Number of persons falling under the administrative decisions (decision on granting Polish citizenship)	Number of persons falling under the decisions of the President of the Republic of Poland (decision on granting Polish citizenship)
2002	1174	209	504
2003	487	185	1403
2004	402	229	1736
2005	357	313	2625
2006	347	454	663
2007	306	399	1190
2008	284	678	1132
2009	234	824	1728
2010	188	903	2019
2011	239	1123	2326
2012	108	1754	2454

Source: Ministry of the Interior

Chart 14. Number of foreigners granted Polish citizenship between 2002-2012 and number of foreigners entered into the territory of Poland on the basis of repatriation visas



Source: Ministry of the Interior

Illegal migration

In 2012, the total of 3 052 of third countries nationals, who crossed the state border against regulations (pgpwp) or made an attempt to do so were detained¹¹² (in 2011 some 2 268 were detained) directly after committing an offence or during committing an offence.

During an attempt of crossing the state border towards the territory of Poland against regulations, 2 449 foreigners (third countries nationals) were detained. In 2011, some 1 811 foreigners were detained.

After crossing the external border against regulations, some 1 281 (960 in 2011) of third country nationals were detained. Detentions concerned crossing the state bor-

der against regulations (pgpwp) at the following border sections:

- with Ukraine - 577 (587 in 2011),
- with Belarus - 421 (176),
- external air links - 267 (154),
- with Russia - 15 (43),
- sea external connections - 1 (0).

After crossing the internal border against regulations 1,168 (851) of third country nationals were detained. Detentions concerned crossing the state border against regulations (pgpwp) at the following border sections:

- with Germany - 557 (489 in 2011),
- with Czech - 337 (253),
- internal air links - 7 (1),
- with Slovakia - 7 (16).

¹¹² In compliance with the adopted definitions, detention may also mean revealing, apprehension etc. It includes the cases of "detecting" an incident and detention/apprehension/revealing of a perpetrator. It also includes a detention of persons on a charge of crossing a state border against regulations (e.g. forgery of documents).

Among the total number of detained for crossing the state border to Poland against regulations (pgpwp) at all border sections, the largest number was coming from:

Ukraine – 1 158 (946 in 2011), Belarus - 203 (168), Georgia - 152 (58), Russia - 141 (111), Pakistan - 102 (3), Syria - 101 (5), Afghanistan - 82 (44), and Vietnam - 81 (34).

Table 6. Forgery of documents revealed by the Border Guards in 2012 - selected categories

Citizenship	Total	Type of document					
		visa	stamp	ID card	residence permit	passport	other
TOTAL third country nationals	1 901	1 294	270	36	89	205	7
TOTAL UE/EEA citizens	20			11		9	
TOTAL	1 921	1 294	270	47	89	214	7

Table 6. Forgery of documents revealed by the Border Guards in 2012 - selected categories

Citizenship	Sector of the border													
	UKRAINE	BELARUS	RUSSIA	External air	External maritime	TOTAL external EU	GERMANY	CZECH REPUBLIC	SLOVAK REPUBLIC	LITHUANIA	Internal air	Internal maritime	TOTAL internal EU	na terytorium kraju
TOTAL third country nationals	587	231	10	259		1 087	316	83	1	2	77	8	487	327
TOTAL UE/EEA citizens	3	1	2	3		9	4	1		4		1	10	1
TOTAL	590	232	12	262		1 096	320	84	1	6	77	9	497	328

Source: Border Guard

The following measures of administrative character were undertaken towards the foreigners detained for crossing the state border to Poland against regulations (pgpwp):

- 824 entry denials were issued (from this group, 22 foreigners were transferred under the readmission procedure, 12 foreigners were placed in guarded centres for foreigners, 2 were granted a decision on expulsion, one was obligated to leave the territory of the Republic of Poland),
- 569 decisions on obliging to leave the territory of the Republic of Poland on voluntary basis were made,
- 386 were placed in guarded centres for foreigners,
- 238 were transferred under the readmission procedure,
- 19 were granted a decision on expulsion,
- 8 were detained in order to expel,
- 4 were transferred under Dublin II,
- in the remaining cases, foreigners were penalised with the penalty notice etc.

In the direction from the territory of Poland, 603 (in 2011 - 457) third country nationals were detained.

In connection with an attempt of crossing the state border against regulations (pgpwp) at internal state border sections, 395 (242 in 2011) third country nationals were detained, including the border section:

- with Germany - 283 (204 in 2011),
- with Czech - 55 (21),
- at sea border - 37 (7),
- at air border - 11 (9),
- with Lithuania - 8 (1),
- with Slovakia - 1 (0).

At the external border from Poland, 208 (215 in 2011) third country nationals made an attempt of crossing the state border against regulations, including the border:

- with Ukraine - 145 (171 in 2011),
- at air border - 35 (20),
- with Belarus - 26 (20),
- at maritime border - 1 (0),
- with Russia - 1 (4).

Among the total number 603 (457 in 2011) of detained for crossing the state border to Poland against regulations (pgpwp) at all border sections the largest number was coming from: Ukraine - 230 (215 in 2011), Russia - 91 (76), Georgia - 65 (41) and Pakistan - 38 (0).

Among 603 (457 in 2011) of foreign nationals detained for crossing the state border to Poland against regulations (pgpwp) in the direction from Poland, 159 (142 in 2011) legally entered the country earlier based on:

- application for granting a refugee status - 111, including 57 Russian nationals, 44 nationals from Georgia, 4 nationals from Armenia, 3 nationals from Uzbekistan and 3 nationals from Syria,
- visas - 32 cases – 18 “D” type visas and 14 “C” type visas,
- transferred by other state services - 6 cases,
- biometric passport - 5 cases,
- local border traffic regime (MRG) - 2 cases,
- visa free regime - 1 case,
- residence title, art. 2 par. 15 Schengen Borders Code - 1 case,
- The residence card - 1 case.

In connection with stating irregular stay on the territory of the Republic of Poland in 2012, 8 139¹¹³ third country nationals were detained. A decision imposing an obligation to leave the territory of Poland was issued for 7 995 third country nationals.

In connection with stating illegal employment by the National Labour Inspectorate, 769 third country nationals were detained, among whom the most frequent cases concerned the nationals from Ukraine, China, and Vietnam. Detentions mainly took place in the following voivodeships: Dolnośląskie Voivodeship, Małopolskie Voivodeship and Śląskie Voivodeship. The Border Guard and the National Labour Inspectorate exercise controls of legality of employment of foreigners in Poland jointly or independently.

113. Data submitted to Eurostat. This number does not include the persons that were detained/apprehended for an act of the same kind in 2012. The definition adopted by EUROSTAT takes into consideration also cases when the basis for detention was connected with other circumstances (e.g. crossing the state border against the regulations at internal borders, illegal employment etc.).

Table 7. Number of foreigners who illegally performed work in Poland between 2009-2012 revealed by the National Labour Inspectorate (independently or in team enlisted with the Border Guard, by selected citizenships)

Citizenship	Number of foreigners working illegally in Poland				
	Total number between 2009-2012	2009	2010	2011	2012
Ukraine	1908	332	618	513	445
China	228	58	77	59	34
Macedonia	162	0	0	162	0
Vietnam	116	27	31	33	25
Philippines	97	29	64	0	4
Belarus	78	46	17	11	4
South Korea	65	6	6	28	25
Moldavia	57	14	27	5	11
Turkey	49	17	9	18	5
India	47	34	4	2	7
Nepal	42	15	21	5	1
North Korea	39	0	30	1	8
Croatia	34	0	0	0	34
Uzbekistan	33	2	27	1	3
Thailand	32	21	7	4	0
Bangladesh	29	5	19	4	1
Armenia	26	9	13	3	1
Russia	17	2	7	0	8
TOTAL	3059	617	977	849	616

Source: National Labour Inspectorate

The Border Guard detained in total 419 foreigners (in 2011, the Border Guard detained 519 foreigners).

tary returns – 764 foreign nationals), and under forced returns – 512.

In 2012, without the participation of the Border Guard, labour inspectors revealed illegal employment and performance of work by 497 foreigners from 31 states (mainly from Ukraine – 358, Croatia – 34 and Vietnam – 12). Jointly with Border Guard officers, labour inspectors revealed illegal employment and performance of work by 147 foreign nationals (Ukraine 87, China 25, The Republic of South Korea 14, Vietnam 13, Egypt 2, Moldova 2, India, Romania, and Tunisia - one each).

Some 6 152 third country nationals left the territory of the Republic of Poland on voluntary basis (including supported volun-

Table 8. The number of foreigners expelled from the territory of Poland by the Border Guard in 2012 - voluntary and forced return

Citizenship	Total	Number of foreigners who returned to their country of origin voluntarily	Number of foreigners who returned to their country of origin within the forced return
Ukraine	4318	4215	103
Russia	1263	1166	97
Belarus	384	368	16
Georgia	229	112	117
Moldavia	57	49	8
Armenia	47	35	12
Vietnam	35	6	29
Uzbekistan	34	34	-
Afghanistan	32	4	28
Mongolia	31	28	3
Pakistan	26	4	22
Kazakhstan	26	22	4
India	25	3	22
Turkey	16	7	9
Kyrgyzstan	15	15	-
Tajikistan	11	10	1
Bangladesh	11	2	9
Egypt	10	1	9
Azerbaijan	9	9	-
Liban	8	5	3
Iran	7	7	-
Iraq	7	6	1
Nepal	6	3	3
Brazil	5	5	-
Cote d'Ivoire	4	-	4
China	4	1	3
Tunisia	4	3	1
Bulgaria	4	4	-
Morocco	3	1	2
Tanzania	2	-	2
Kenia	2	2	-
Philippines	2	2	-
United States	2	2	-
Senegal	2	2	-
Kongo	1	1	-
Colombia	1	1	-
Canada	1	1	-
Malaysia	1	1	-
British Indian Ocean Territory	1	1	-

Table 8. The number of foreigners expelled from the territory of Poland by the Border Guard in 2012 - voluntary and forced return (continued)

Citizenship	Total	Number of foreigners who returned to their country of origin voluntarily	Number of foreigners who returned to their country of origin within the forced return
Sudan	1	1	-
Jordan	1	1	-
Mali	1	-	1
Albania	1	-	1
Syria	1	1	-
Kamerun	1	-	1
Nigeria	1	-	1
Israel	1	1	-
Algeria	1	1	-
TOTAL	6664	6152	512

Source: Border Guard

Annex 3. References

National legislation:

- Polish Constitution of 2 April 1997;¹¹⁴
- Act of 13 June 2003 on foreigners¹¹⁵ (entry, admission, residence, return and registers of foreigners);
- Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland¹¹⁶ (granting international and national forms of protection);
- Act of 14 July 2006 on the terms and conditions of the entry into and the stay in the territory of the Republic of Poland of the citizens of the EU Member States and the members of their families;¹¹⁷
- Act of 9 November 2000 on repatriation;¹¹⁸
- Act of 7 September 2007 on Card of the Pole;¹¹⁹
- Act of 15 February 1962 on citizenship;¹²⁰
- Act of 20 April 2004 on promotion of employment and labour market institutions;¹²¹
- Strategic document „Migration Policy of Poland – current state of play and further actions” of 31 July 2012 (date of acceptance by the Council of Ministers);
- Act of 28 July 2011 on legalisation of stay of some foreigners on the territory of the Republic of Poland and amendments to the Act on granting protection for foreigners on the territory of the Republic of Poland and the Act on foreigners (Journal of Laws 11.191.1133);
- Act of 15 June 2012 on the consequences of entrusting the performance of work to foreigners who illegally stay within the territory of the Republic of Poland (Journal of Laws of 6 July 2012, No. 679).

114. Official Journal of Laws 1997, No. 78, item 483, with later amendments.

115. Official Journal of Laws 2011, No. 264, item 1573, with later amendments.

116. Official Journal of Laws 2012, item. 680.

117. Official Journal of Laws 2006, No. 144, item. 1043, with later amendments

118. Official Journal of Laws 2004, No. 53, item 532, with later amendments.

119. Official Journal of Laws 2007, No. 180, item 1280, with later amendment.

120. Official Journal of Laws 2012, item 161. On 15 August 2012 a new act of 14 April 2009 on Polish citizenship entered into force. In 2009 the current Polish President appealed to the Constitutional Court, as a law incompatible with Polish Constitution. Judgment of Constitutional Court from the 18 January 2012 (Polish Monitor of 2012 No. 39) considered that rules laid down in the act concerning to recognition as a Polish citizen, are corresponding with the Constitution. Based on the above-mentioned rules of Act, starting from 15 May 2012, foreigners can apply for the restoration of Polish citizenship, which has been lost in the past. Restoration of Polish citizenship is a completely new category in Polish law. An analysis of the rules on the acquisition of Polish citizenship is posted on the website of the EMN National Contact Point in Poland http://www.emn.gov.pl/portal/esm/704/10185/Analiza_zmian_dotyczacych_zasad_nabywania_obywatelstwa_polskiego.html

121. Official Journal of Laws 2008, No. 69, item 415, with later amendments.

EU legislation:

- Council Regulation No. 2725/2000 of 11 December 2000 concerning the establishment of “Eurodac” for the comparison of fingerprints – Official Journal, L 316, 15.12.2000.
- Council Directive 2003/109/EC of 25 November 2003 concerning the status of third-country nationals who are long-term residents – Official Journal, L 016, 23.01.2004.
- Directive 2004/38/EC of the European Parliament and of the Council of 29 April 2004 on the right of citizens of the Union and their family members to move and reside freely within the territory of the Member States – Official Journal, L 158, 30.04.2004.
- Regulation No. 562/2006 of the European Parliament and of the Council of 15 March 2006 establishing a Community Code on the rules governing the movement of persons across borders (Schengen Borders Code) – Official Journal, L 105, 13.04.2006.
- Council Regulation No. 380/2008 of 18 April 2008 amending Regulation No. 1030/2002 laying down a uniform format for residence permits for third-country nationals – Official Journal, L 115, 29.04.2008.
- Council Decision No. 2008/381/EC of 14 May 2008 establishing a European Migration Network – Official Journal, L 131, 21.05.2008.
- Council Decision 2008/633/JHA of 23 June 2008 concerning access for consultation of the Visa Information System (VIS) by designated authorities of Member States and by Europol for the purposes of the prevention, detection and investigation of terrorist offences and of other serious criminal offences – Official Journal, L 218, 13.08.2008.
- Regulation No. 767/2008 of the European Parliament and of the Council of 9 July 2008 concerning the Visa Information System (VIS) and the exchange of data between Member States on short-stay visas (VIS Regulation) – Official Journal, L 218/60, 13.08.2008.
- Directive 2008/115/EC of the European Parliament and of the Council of 16 December 2008 on common standards and procedures in Member States for returning illegally staying third-country nationals – Official Journal, L 348, 24.12.2008.
- Council Directive 2009/50/EC of 25 May 2009 on the conditions of entry and residence of third-country nationals for the purposes of highly qualified employment – Official Journal, L 155/17, 18.06.2009.
- Regulation No. 810/2009 of the European Parliament and of the Council of 13 July 2009 establishing a Community Code on Visas – Official Journal, L 243/1, 15.09.2009.
- Directive 2011/36/EU of the European Parliament and of the Council of 5 April 2011 on preventing and combating trafficking in human beings and protecting its victims, and replacing Council Framework Decision 2002/629/JHA – Official Journal, L 101/1, 15.04.2011.

- Directive 2011/51/EU of the European Parliament and of the Council of 11 May 2011 amending Council Directive 2003/109/EC to extend its scope to beneficiaries of international protection – Official Journal, L 132/1, 19.05.2011.
- Directive 2011/95/EU of the European Parliament and of the Council of 13 December 2011 on standards for the qualification of third-country nationals or stateless persons as beneficiaries of international protection, for a uniform status for refugees or for persons eligible for subsidiary protection, and for the content of the protection granted – Official Journal, L 337/9, 20.12.2011.
- Directive 2011/98/EU of the European Parliament and of the Council of 13 December 2011 on a single application procedure for a single permit for third country nationals to reside and work in the territory of a Member State and on a common set of rights for third-country workers legally residing in a Member State – Official Journal, L 343/1, 23.12.2012.
- Council Document No. 8714/1/12 of 23 April 2012 EU Action on Migratory Pressures – a Strategic Response, <http://register.consilium.europa.eu/pdf/en/12/st08/st08714-re01.en12.pdf>.

Other sources:

- “*Immigrants urgently needed*”, the Foundation for the Federal Energy Europe, No. 08, February 2013;
- “*The principle of equal treatment - law and practice. Prevention of violence motivated by race, ethnicity and nationality. Analysis and Recommendations*“, Report of the Ombudsman.



Year 2012 was full of events that had significant influence on foreigners coming to Poland and on a situation of migrants on the Poland's territory. Among them should be mentioned a strategic document adopted by the Council of Ministers on 31 July 2012, determining basic assumptions of the Polish migration policy oriented to the promotion of legal migration to Poland (*"Migration Policy of Poland – the Current State of Play and the Further Actions"*), an Act authorising an irregular stay of a foreign national in our country that has come into force (in result of the regularisation, 4 415 foreign nationals legalised their stay in Poland), which has markedly contributed to the increase of a number of residence cards issued to foreign nationals, or hosting the UEFA EURO 2012, European Football Championship by Poland and Ukraine, which developed the need to intensify control at the country borders.

In course of the year, intensive legislation works on a bill on foreigners were carried out. The act is expected to come into force in 2014. Additionally, the provisions of the so-called Return and Blue Card Directives were transposed to national legal orders.

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