

# National forms of protection Non-EU harmonised national forms of foreigner protection in Poland

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Report drawn up by the European Migration  
Network in Poland.



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This National Report was compiled and prepared by the Ministry of the Interior and Administration acting in the capacity of the coordinator of the European Migration Network in Poland. The basis for the work on the report were common specifications and methodologies adopted by the European Migration Network (EMN).

The European Migration Network was established pursuant to Council Decision 2008/381/EC of 14 May 2008 to provide up-to-date, objective, reliable and comparable information on migration and asylum to EU institutions, authorities and institutions of the Member States as well as the public opinion, in order to support the policy-making process in the EU. The work of the EMN is coordinated and co-financed by the European Commission in cooperation with the national contact points (EMN NCPs) set up by each EU Member State and Norway.

The final electronic version of the national report (in Polish as well as English) will be available on the website [www.emn.gov.pl](http://www.emn.gov.pl).

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**DISCLAIMER:**

The report was drawn up by the European Migration Network in Poland. The opinions expressed in it do not necessarily align with the point of view of the institutions that are part of the EMN and the European Commission. These entities are also not connected to any conclusions formulated in the report.

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# Introduction

This report constitutes an update to the information featured in the 2010 report on the national forms of protecting foreigners in the territory of the Republic of Poland that was drawn up and published by the European Migration Network. Nearly a decade has passed since the publication of the aforementioned report, with many events that impacted the existing legislation as well as instruments of the EU state migration policies.

The events that took place in Tunisia at the end of 2010 and served as a cornerstone for the Arab Spring, the 2015 migration crisis in Europe, alarming reports of international organisations working to combat global warming, pointing out the risk of climate-induced migration, liberalisation of visa policies in the different EU states, economic changes, all of this is meant to stimulate the necessity of further work on perfecting the Common European Asylum System.

This report was drawn up based on 2018 study carried out by the European Migration Network intended to create a guide for the national forms of protection granted to foreigners in the different EU states, which account for the need of protection that differs from international protection granted under 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 and Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof.

The study's objective was to strengthen the Common European Asylum System, set out additional paths through which to legally accept persons in need of protection, as well as reinforce the idea of sustainable migration, which includes halting the growing scale of secondary migrations.

The Member States have the right to grant third-country nationals forms of protection that are authorised by national law, provided that they do not challenge EU measures and comply with EU legislation. Article 3 of the qualification Directive provides that Member States can introduce or uphold the more favourable standards that allow to determine whether someone is a refugee or a person in need of subsidiary protection, and to determine the scope of international protection, provided that these standards are in line with this Directive.

The national forms of protecting foreigners complement the EU-harmonised international forms of protection and secure the interest of people who for certain reasons cannot return to their country of origin and do not qualify for refugee status or subsidiary protection.

Similar to other Member States of the European Union, Poland is a party to the convention on refugees and other international instruments related to human rights. They share similar values and a commitment to secure the interests of persons in need of protection. However, the contents of the aforementioned documents do not account for all cases of people whose expulsion is unacceptable and entails human rights abuse. It is worth emphasizing that the EU law that regulates the issues related to international protection applies to third-country nationals and therefore in theory it excludes citizens of the EU as well as other beneficiaries of the right to free movement conferred by the Schengen Borders Code.

The objective of this report is to present

1. Within the meaning of Article 9 of the Act of 13 June 2003 on providing protection to foreigners on the territory of the Republic of Poland (Journal of Laws of 2019, item 1666), the country of origin is

a state where the foreigner is a citizen, and in the case of a foreigner whose citizenship cannot be determined or who is not a citizen of any state – the state of the foreigner's permanent residence.

up-to-date legal regulations on conferring national forms of protection in Poland, conditions that a given foreigner has to meet in order to benefit from the said protection, as well as the scope of rights that they carry.

The aid granted to foreigners in Poland evolved and took on various forms (see the 2010 report of the European Migration Network). Very significant changes in the legislation concerning the legalisation of the foreigners' stay in Poland took place in May 2014 when the new Act of 12 December 2013 on foreigners entered into force. The most important reform introduced by the new Act was shifting the burden of examining the reasons for granting a permit for tolerated stay from the Head of the Office for Foreigners to Border Guard authorities. In practice, it means that issuing a decision to grant or refuse permit for tolerated stay as part of the procedure on obliging the foreigner to return, and not, like before, as part of the procedure for granting refugee status. The new Act also changed the appeal body, which currently, in the case of a decision to refuse permit for tolerated stay, is the Head of the Office for Foreigners and not the Council for Refugees, like it was prior to the Act's amendment. The reasons for

granting a permit for tolerated stay have not generally changed, however, part of them was transferred to the institution of permit to stay for humanitarian reasons.

Another crucial change in the context of granting foreigners protection in Poland, was to introduce a new institution meant to provide protection from negative consequences of expulsion, also considered as part of the proceedings to oblige the foreigner to return – a permit to stay for humanitarian reasons.

This report is addressed to government and non-governmental institutions, public benefit organisations, academic centres and individuals who work on or are interested in migration issues, in the context of protection procedures that foreigners have access to in Poland.

2. Third-country national – any person who is not a citizen of the European Union Member States within the meaning of Article 20(1) of TFEU and who is not a person enjoying the European Union right to free movement, as defined in Art. 2(5) of the Regulation (EU) 2016/399 (Schengen Borders Code).

3. Within the meaning of Article 3(2) of the Act of 12 December 2013 on foreigners (Journal of Laws of 2018, item 2094), a foreigner is every person who is not a Polish citizen.

4. EMN Poland, National Forms of Protection, <https://www.emn.gov.pl/esm/publikacje/nasze-publikacje/krajowe-formy-udzieleni>, last access on 16 June 2020.





# 1

**Forms of foreigner  
protection in Poland  
EU-harmonised forms  
of protection granted to  
foreigners, procedures**



## 1.0 Forms of foreigner protection in Poland

### EU-harmonised forms of protection granted to foreigners, procedures

Refugee status is undoubtedly the most recognised and the most commonly used form of international protection. The reasons for granting refugee status follow directly from the 1951 convention on refugee status which determines the minimal standards of protection and which Poland ratified in 1991, as well as the New York Protocol of 31 January 1967, which removed the time and geographical restrictions in granting the status.

The convention is supplemented by the following documents:

**1.** 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;

**2.** Directive 2001/55/EC of 20 July 2001 on minimum standards for giving temporary protection in the event of a mass influx of displaced persons and on measures promoting a balance of efforts between Member States in receiving such persons and bearing the consequences thereof;

**3.** Directive 2003/9/EC of 27 January 2003 laying down minimum standards for the reception of asylum seekers.

The Act on granting protection to foreigners within the territory of the Republic of Poland implements those Directives within its regulatory scope.

Due to the fact that the EU-harmonised forms of protection are not the subject of this report, their further analysis has been abandoned.



# 2

**Forms of foreigner protection  
in Poland**

**National forms of protection  
for which there is no reference  
in EU law**



## 2.0 Forms of foreigner protection in Poland

### National forms of protection for which there is no

#### 2.1 Asylum

Asylum is the oldest<sup>5</sup> form of protection granted to foreigners in Poland, however, due to its specifics and political nature, it is also one used the least often. Granting asylum entails not only granting protection to the foreigner but also securing the interest of Poland, which in practice is a difficult condition for an average foreigner to meet.

It must be stressed at the outset that in the Polish law, asylum does not equal refugee status. In English terminology these concepts usually mean the same and are termed "asylum". Such similarity of terms often causes the foreigner to declare their intent to submit an asylum claim or actually submit one, believing it to be a procedure for the granting of international protection that was provided for by the 1951 Refugee Convention. Then, once they become more informed on it, they withdraw their claim and submit a separate application for international protection.

Although Article 14(1) of the 1948 Universal Declaration of Human Rights declares that each human being has the right to seek asylum and benefit from asylum in another country if they are being persecuted. However, due to the fact that this is a resolution of the UN's General Assembly, in practice this Act has no binding power. However, many countries, including Poland, introduced the institution of asylum into their legislation.

The legal act on the basis of which asylum is granted in Poland, is the 1997 Constitution of the Republic of Poland (Journal of Laws No 78, item 483) whose Article 56 directly states that foreigners shall have a right of asylum in the Republic of Poland in accordance with principles specified by statute (Act). The legal act that the aforementioned

regulation refers to is the Act of 13 June 2003 on providing protection to foreigners on the territory of the Republic of Poland (Journal of Laws, item 1666), which features detailed guidelines regulating the procedure for granting a foreigner asylum or depriving them of it. Due to the fact that issuing a decision to grant asylum is an administrative procedure, the Code of Administrative Procedure of 14 June 1960 (Journal of Laws of 2018, item 2096) also applies.

#### Procedura

According to Article 90 of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland, a foreigner may be granted asylum, at their request, if it is necessary to protect them and the aforementioned interest of the Republic of Poland requires so. It merits explaining that the interest of the Republic of Poland is not considered to be the intent of taking up honest employment in Poland or having specific experience and professional qualifications as well as the requirement for Poland to uphold its international commitments, including the 1950 European Convention for the Protection of Human Rights and Fundamental Freedoms.<sup>6</sup> Similarly, Polish case law refers to persecution based on nationality, which does not constitute grounds for granting asylum, as this type of persecution exhausts the notion of a 'refugee' within the meaning of the definition featured in the 1951 Refugee Convention and in the case when it is actually present, gives the foreigner the right to seek refugee status<sup>7</sup>.

5. Asylum was first introduced into Polish legislation under Article 75 of the Constitution of 22 July 1952, Journal of Laws of 1952, No. 33, item 232, the text of which reads: "The Polish People's Republic shall grant asylum to nationals of other countries persecuted in connection with defending the interests of the working people, the struggle for social progress, activities in defence of peace, the struggle for national liberation, or as a result of scientific activities."

6. Paweł Dąbrowski, Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland, Commentary with case law, December 2008, p. 95.

7. Ibid.

However, in order for an asylum procedure to be initiated pursuant to Article 90 of the Act on granting protection to foreigners within the territory of the Republic of Poland, a foreigner must submit a correctly completed application that features:

- 1) data of the applicant and the person on behalf of whom the applicant acts, to the extent necessary to carry out the asylum procedure;
- 2) specifying the country of origin of the applicant and the person on behalf of whom the applicant acts;
- 3) specifying significant events that are the grounds for seeking asylum.

Furthermore, the foreigner is obligated to submit to fingerprinting and attach a photograph. Fingerprinting and photographing a foreigner is provided by the Commander-in-Chief of the Border Guard unit whose territorial jurisdiction covers the Capital City of Warsaw. If a foreigner defaults on the obligation, the asylum claim is left without consideration<sup>8</sup>.

The institution of asylum is a unique form of protection not only because of its political nature, but also due to the fact that the foreigner can submit a relevant application while staying outside the territory of the Republic of Poland. The obligation to submit to fingerprinting is then suspended until the foreigner appears within the territory of the Republic of Poland (based on a national visa issued for the purpose of attending the asylum procedure or in connection with granting asylum)<sup>9</sup>. The foreigner staying abroad receives a notification of the requirement to appoint an attorney in the Republic of Poland, authorised to receive or exchange correspondence via a Polish diplomatic post in the foreigner's country of stay. If a party does not appoint an attorney within a specified period, all letters, rulings and decisions are left in the case files and considered as delivered<sup>10</sup>.

8. Pursuant to Article 64(2) of the Administrative Procedure Code (Journal of Laws of 2018, item 2096), which provides that if the application does not meet other requirements arranged in the legal regulations, the applicant should be called to rectify its shortcomings within a specified period that is not shorter than seven days, with an instruction that failing to rectify these shortcomings will lead to the application being left without consideration.

9. Article 92(2) of the Act of 13 June 2003 on providing protection to foreigners on the territory of the Republic of Poland (Journal of Laws of 2019, item 1666).

10. Article 40(4) and (5) of the Administrative Procedure Code

The asylum procedure does not in any way suspend the procedure for obliging the foreigner to return (if such is in progress), or legitimise the foreigner's stay within the territory of the Republic of Poland, as is the case with the proceedings for granting of international protection<sup>11</sup>. Similarly, receiving a negative decision also does not initiate the procedure for obliging the foreigner to return. The foreigner being the subject of the asylum procedure may submit an application for international protection or another form of legitimising their stay.

### **The entity responsible for carrying out the procedure and issuing a decision**

The asylum decision is issued by the Head of the Office for Foreigners to which the foreigner directly addresses their application and which is the same body that issues decisions in cases for granting of international protection. An asylum application should be generally considered, similar to an international protection application, within 6 months after submission. The foreigner is informed about the decision in observance of the rules resulting from the Code of Administrative Procedure.

An element necessary for the Head of the Office for Foreigners to issue a positive decision on granting asylum, is obtaining prior consent of the minister competent for foreign affairs<sup>12</sup>. Such a solution seems necessary due to the political nature of the asylum institution and the impact that issuing a specific decision may have on the bilateral relations of Poland as the hosting country, with foreigner's country of origin. The case described below indicates the unique nature of the institution of asylum and its potential implications<sup>13</sup>.

Granting asylum to a European citizen was unprecedented and to a certain degree negatively impacted bilateral relations between Poland and Norway, which had the consequence in the Polish consul in Oslo being declared *persona non grata* and

(Journal of Laws of 2018, item 2096).

11. Upon submission of the application for international protection, the Border Guard unit responsible for accepting the application issues a temporary certificate of a foreigner's identity. Subsequent certificates are issued by the Head of the Office for Foreigners. The certificate remains valid until the proceeding is concluded.

12. Article 92(1) and (2) of the Act of 13 June 2003 on providing protection to foreigners on the territory of the Republic of Poland (Journal of Laws of 2019, item 1666).

13. Information published on Twitter: [https://twitter.com/SzSz\\_vel-Sek/status/1095691874411651072](https://twitter.com/SzSz_vel-Sek/status/1095691874411651072)



dismissed from his posting. .

### **S.G.S.G. CASE**

In 2017 S.G., a Norwegian national, sought asylum in Poland. In 2019, after her application was re-considered by the Head of the Office for Foreigners and once she obtained the consent of the Minister of Foreign Affairs, she was granted asylum in Poland. The decision also extended to the minor daughter of the Applicant. The basis for S.G.'s application was the fear of being separated from her daughter (and thereby infringing on the right to family life) by Barnevernet, Norwegian institution dealing with the protection of the rights of the child, which accused S.G. of improper care for her child. Having re-considered the application, the Office for Foreigners found that there were reasons for extending protection to the Norwegian citizen. The Minister of Foreign Affairs gave his consent, also finding this case to be in line with the interest of the Republic of Poland. In the justification, the Ministry of Foreign Affairs gave the argument that "as a constitutional principle, the principle of family protection is an essential element of state policy, both in the sphere of internal and foreign policy".

#### **Appeal procedure**

Pursuant to the Code of Administrative Procedure, in administrative procedures the competent authority for considering an appeal is generally a higher-level public administration authority (for international protection it is the Council for Refugees). However, in the case of the institution of asylum we are facing an appeal against the Minister's decision (mandatory approval by the Minister of Foreign Affairs on granting asylum). In this situation, the foreigner has the right to apply to the Head of the Office for Foreigners to re-examine the case (according

to Article 127 § 3 of the Code of Administrative Procedure). Without exercising the right to apply for re-examination of the case, the foreigner can also file a complaint with the Voivodeship Administrative Court in Warsaw via the Head of the Office for Foreigners.

#### **Documents issued to persons who were granted asylum in Poland**

A foreigner who obtained asylum in Poland is granted, at their request, a permanent residence permit for an indefinite period. The validity period of the first residence card and each subsequent one is 10 years<sup>14</sup>. The foreigner must submit the relevant application to the voivode competent for their place of residence before the current card expires. It should be emphasized that this solution is a much-preferred option compared to the one offered to the beneficiaries of international protection who cannot obtain a permanent residence permit earlier than after 5 years of continuous stay<sup>15</sup> within the territory of the Republic of Poland<sup>16</sup>.

#### **Travel document**

Pursuant to the Act on foreigners, each foreigner who obtained a permanent residence permit and whose travel document was lost, destroyed or expired and they cannot obtain a new travel document, may be issued a Polish travel document. During its validity period, a Polish travel document issued to a foreigner authorises said foreigner to cross the border multiple times. Such a document is valid for 1 year. A Polish travel document for foreigners shall be issued or refused to be issued, replaced or refused to be replaced by the voivode competent for the foreigner's place of residence<sup>17</sup>.

#### **Access to housing**

The foreigner who was granted asylum in Poland is not entitled to aid in the form of being provided

14. Article 243 of the Act on foreigners.

15. Pursuant to Article 195(4) of the Act on foreigners, a foreigner's stay within the territory of the Republic of Poland that creates grounds for granting them a permanent residence permit is deemed continuous if none of the intervals exceeded 6 months and their total length did not exceed 10 months during the period constituting the basis for granting them a permanent residence permit, unless the interval occurred due to: 1) the foreigner performing professional duties or work outside the territory of the Republic of Poland on the basis of an agreement with an employer whose head office is located within the

territory of the Republic of Poland; or 2) the foreigner referred to in point 1 being accompanied by their spouse or minor child, or 3) specific personal circumstances requiring the foreigner's presence outside the territory of the Republic of Poland and lasting no longer than 6 months, or 4) travel outside the territory of the Republic of Poland in order to complete an internship or participate in courses planned in the course of studies at a Polish university.

16. Article 195(1)(6) (a) of the Act on foreigners.

17. Article 252 of the Act on foreigners.

18. Pursuant to the definition included in Article 5 (4) of the Act of

with housing or receiving funds to that end. The foreigners' right of access to social or communal housing is subject to the same rules that apply to Polish citizens.

### **Family reunification**

A foreigner who was granted asylum in Poland and resides within the territory of the Republic of Poland based on a permanent residence permit may request a temporary residence permit for a family member, provided that they have health insurance, a stable source of regular income sufficient to sustain them and their family members who are or will be dependent on them, and have secured a place of residence within the territory of the Republic of Poland.

Pursuant to Article 159(1) of the Act on foreigners, a family member shall be:

- 1) a person who is married to the foreigner and the marriage is recognised under the law of the Republic of Poland;
- 2) a minor child, including a foster child, of the foreigner and a person whom the foreigner married and the marriage is recognised under the law of the Republic of Poland;
- 3) a foreigner's minor child, also a foster child, being the foreigner's dependant over whom the foreigner exercises actual parental authority;
- 4) a minor being a child of a person referred to in point 1, including an adopted child, who is that person's dependant over whom the foreigner exercises actual parental authority.

### **Access to the labour market**

Being a permanent residence permit holder, a person who was granted asylum does not have to apply for a work permit to work within the territory of the Republic of Poland. The need to recognise specific professional qualifications is based solely on general rules governing access to certain professions. If access to a given profession is unrestricted, it is the employer who is responsible for confirming

qualifications. Access to regulated professions<sup>18</sup> and exercise of the profession by beneficiaries of asylum is subject to general national rules<sup>19</sup>.

### **Access to healthcare**

Every foreigner residing legally in Poland has access to healthcare under the same rules as Polish citizens. A person who is not covered by obligatory health insurance may take out voluntary insurance. For this purpose, they should submit an appropriate application to the National Health Fund with the voivodeship branch of the National Health Fund.

### **Access to education**

In Poland, each minor foreigner is subject to compulsory education. In the case of problems to adapt that follow from shortages of languages skills, a minor foreigner can attend the so-called preparatory centre or enlist the services of a supporting teacher. Furthermore, a holder of a permanent residence card (which is granted to an asylum beneficiary) is entitled to access to unpaid studies at state universities. Foreigners who were granted asylum in Poland are not provided access to language courses, however, they can apply for a position on free courses organised by non-governmental organisations and foundations.

### **Integration programme**

Asylum beneficiaries are not covered by any integration programme, as is the case for foreigners who were granted refugee status or subsidiary protection in Poland.

### **Expiration or revocation of protection**

Pursuant to Article 91 of the Act on granting foreigners protection within the territory of the Republic of Poland, foreigner's asylum is revoked if the reasons for granting it have ceased to exist or if the foreigner acts against state defence or security or public safety and order. Asylum revocation decisions are issued by the Head of the Office for Foreigners

<sup>22</sup> December 2015 on the principles governing the recognition of professional qualifications gained in Member States of the European Union, a regulated profession is a set of professional activities the performance of which depends on having formal qualifications specified in the regulating provisions, necessary to carry out these professional activities and, if required, fulfilling any other conditions specified in these provisions. In practice, each Member State of the EU decides

on how to regulate access to professions. The same profession may be a regulated profession in one EU Member State, while not being regulated in other Member States.

<sup>19</sup> More information on the subject can be found online: <https://www.gov.pl/web/nauka/uznawanie-kwalifikacji-zawodowych-1>

<sup>20</sup> See: Journal of Laws of 2018, item 1829, Article 30(1)(1).

<sup>21</sup> See: Article 20 (4) of the Act of 14 September 2018 on Polish

upon prior consent of the Minister of Foreign Affairs.

### Naturalisation and acquisition of citizenship

The rules in this regard are regulated by the Act on Polish Citizenship of April 2, 2009<sup>20</sup>. In the context of foreigners who have been granted one of the forms of protection not harmonized with international protection, a situation of granting citizenship of the Republic of Poland by the President of the Republic of Poland may occur, or it may be recognized as a Polish citizen. In the first case, the status is granted at the justified request of the foreigner<sup>21</sup>. On the other hand, recognition as a citizen of the Republic of Poland is based on the decision of the voivode competent for the place of residence of the foreigner, and the applicant is obliged to submit documents confirming the fact of having a stable and regular source of income in Poland and a legal title to living premises<sup>22</sup>. The condition for recognition as a Polish citizen is an uninterrupted stay in the territory of the Republic of Poland on the basis of a permanent residence permit for at least 3 years. A foreigner may also be granted citizenship if they have continuously resided within the territory of the Republic of Poland for at least 2 years on the basis of a permanent residence permit but have been married to a Polish citizen for at least 3 years<sup>23</sup>. An important element is the need to submit documents confirming the knowledge of the Polish language acknowledged by an official certificate

at the language proficiency level of at least B1, a school leaving certificate in the Republic of Poland or a school leaving certificate abroad with Polish as the language of instruction<sup>24</sup>.

It is worth noting that Polish regulations on granting citizenship favour foreigners who were granted asylum in Poland (and immediately upon being granted asylum they are authorised for permanent residence) to beneficiaries of refugee status or subsidiary protection who have to wait at least 5 years to submit an application for a permanent residence permit.

### Statistical data

Between the beginning of 2013 and 19 September 2019, there were in total 217 foreigners submitted applications to be granted asylum in Poland. Of the decisions issued in these cases 114 were positive, with 110 being issued to the citizens of Ukraine. See the table below.

It should be explained that such a large number of cases where asylum was granted to Ukrainian citizens in the years 2015–2016 resulted from political decisions related to the protection of family members of persons of Polish origin who were qualified for evacuation from conflict areas in eastern Ukraine, that is Donbass and Mariupol. These people were granted visas in order to take part in the asylum procedure in Poland, as during that time the visa-free regime with Ukraine was not yet in force (it entered

#### TABLE

Decisions on granting asylum in the Republic of Poland according to SI POBYT registered until 19 September 2019.<sup>25</sup>

CITIZENSHIP	2013	2015	2016	2017	2019	RAZEM
BELARUS	1	0	0	1	0	2
NORWAY	0	0	0	0	2	2
RUSSIA	0	1	0	0	0	1
UKRAINE	0	55	54	0	0	109
END TOTAL	1	56	54	1	2	114

citizenship (Journal of Laws of 2018, item. 1829)

22. See: Article 33 (4) of the Act of 14 September 2018 on Polish citizenship (Journal of Laws of 2018, item. 1829) Patrz: Ustawa o obywatelstwie polskim z dnia 2 kwietnia 2009 r., art. 30 pkt. 1, ust. 2.

23. See: Article 30 (1)(2) of the Act of 14 September 2018 on Polish citizenship (Journal of Laws of 2018, item. 1829).

24. See: art. 11a Act of 7 October 1999 r. on Polish language (Journal of Laws of 2019, item. 1480).

25. Data submitted by the Migration Analytical Centre of the Office for Foreigners.

into force on 11 June 2017).

In total 451 foreigners sought asylum in Poland since 1996. An overwhelming majority of applicants came from Ukraine (42%), Russia (20%) and Belarus (11%).

The table below presents top 10 countries of origin for the largest number of foreigners seeking asylum during the period 1996-2019 (September).

Since the implementation of the Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland, the first asylum was granted as late as in 2013, which only confirms the unique nature of this form of protection. Apart from the difficult presumption of the foreigner having to prove that granting asylum lies in the interest of the Republic of Poland, this form of protection is so rarely requested due to the following factors:

**TABLE**

number of applicants according to citizenship in years 1996-2019

CITIZENSHIP	NUMBER OF APPLICANTS ACCORDING TO CITIZENSHIP
UKRAINE	148
RUSSIA	72
BELARUS	38
ARMENIA	23
BANGLADESH	22
AFGHANISTAN	16
AZERBAIJAN	10
IRAN	10
GEORGIA	8

- low knowledge of foreigners about asylum institutions and insufficient dissemination of information on various forms of protection of foreigners;
- lack of specialized non-governmental organizations implementing activities related to providing foreigners with support in matters other than international protection;
- the prevalence of the refugee status and subsidiary protection as well as the fact that information on these forms of international protection is widely available in multiple foreign languages;
- the foreigners preferring international protection to national protection;
- the arbitrary nature and difficulties posed by having to prove the interest of the Republic of Poland;
- a simple issue that taking part in the asylum procedure does not legitimise the foreigner's stay in Poland;
- the foreigner is not granted any social benefits (e.g. accommodation, access to medical services, monetary benefits);
- lack of integration programme once the procedure is successfully completed.

#### **Procedural obstacles and difficulties**

As a consequence of low number of asylum cases, there were no major practical or operational hurdles found in this area. The most important challenges in the case of active asylum procedures include establishing contact with the applicant. There were situations when asylum cases were initiated with an application mailed by a foreigner staying outside Poland. In such a case, formal shortcomings like lack of a correspondence address or failure to meet other formal requirements cause the application to be

left without consideration pursuant to the code of administrative procedure.

### **Udzielenie zgody na pobyt ze względów humanitarnych oraz zgody na pobyt tolerowany**

Prior to amending the Act on foreigners, tolerated stay was the guarantee institution for foreigners

**2.2** foreigner's inability to return to their country should afford them international protection (subsidiary protection) or domestic protection (tolerated stay) instead this form of protection was excluded from the refugee procedure. The prerequisites for granting the permit for tolerated stay, especially those intended to establish the existence of a risk of torture, inhuman and degrading treatment, overlapped with each other under the proceedings.

A significant change is the fact that in the current legal order both institutions function under a separate procedure, i.e. proceeding for obliging a foreigner to return. Granting a permit for tolerated stay and permit for humanitarian stay are forms of protection that complement the international system of foreigners' protection, i.e. refugee status and subsidiary protection. A foreigner may be granted such a permit once the proceedings on granting international protection is concluded, as a result of the conducted proceedings for obliging a foreigner to return. It may also occur that a foreigner that was made the subject of a return procedure applies for international protection in Poland. Then the procedure is suspended until a decision is made, unless it is the foreigner's repeated application (Article 305 of the Act on foreigners).

It is not possible to submit a separate application for authorising the stay for humanitarian reasons or tolerated stay. The above is decided as part of a decision on obliging a foreigner to return.

The proceedings on obliging a foreigner to return shall be initiated and conducted ex officio or upon the request of a voivode, the Minister of National Defence, the Head of the Internal Security Agency, the Head of the Intelligence Agency, the body of the National Revenue Administration, the voivodeship

who were refused refugee status and subsidiary protection and whose expulsion was not acceptable for certain reasons. Consent for tolerated stay was an integral part of the procedure implemented in the case of granting international protection before the Head of the Office for Foreigners. However, due to a certain lack of transparency on whether the

commander or the powiat (municipal) commander of the Police, the commander of a Border Guard outpost or the commander of a Border Guard unit.

The amendment to the Act transferred the competences to rule on authorising the stay for humanitarian reasons or tolerated stay from the Head of the Office for Foreigners to the Border Guard authorities. Under the new legal order, the Head of the Office is the body to appeal to from first instance decisions made by the commander of a Border Guard unit or outpost.

In both cases the premises partly overlap. A major difference in qualification is that authorising the stay for humanitarian reasons is motivated by the foreigner's right to family life or private life and the child's rights. Both forms of national protection are discussed successively in more detail below, accounting for the differences between them.

### **Authorisation to stay for humanitarian reasons Procedure**

As was written above, the institution of authorisation to stay for humanitarian reasons is the latest national form of protection granted to foreigners in Poland and was introduced on the basis of the Act of 12 December 2013 on foreigners which entered into force on 1 May 2014. Although the provisions featured in this institution have already existed before.

Pursuant to Article 348 of the Act on foreigners, a foreigner's stay within the territory of the Republic of Poland shall be authorised for humanitarian reasons if their obligation to return:

can be exercised solely to the state in which within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November

## 2.3

1950:

- their right to life, freedom and personal security might be threatened, or
  - they could be subjected to torture or inhumane or degrading treatment or punishment, or
  - they could be subjected to forced labour, or
  - they could be deprived of the right to a fair trial or would violate their right to family or private life within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950, or would violate the rights of the child, as defined in the Convention on the Rights of the Child,
1. adopted by the General Assembly of the United Nations on 20 November 1989, in a manner which may represent a serious threat to their psychophysical development.

In practice, stay for humanitarian reasons is sometimes granted when the foreigner is not healthy enough to travel, the foreigner has a family life in Poland, the foreigner's children are so integrated into the Polish society that removing them would infringe on the rights set out in the Convention on the Rights of the Child of 1989.

If the foreigner's health requires treatment and specialised medical care which is not available to them in their country of origin and not receiving it may cause the foreigner suffering that could be compared to torture or inhumane treatment, then granting a permit for humanitarian stay could be considered.

3. In practice, authorisation to stay for humanitarian reasons is most often granted to individuals who lead a family life in Poland, whose children are significantly integrated into the Polish society, attend a Polish school and their expulsion would negatively impact their mental and physical state.

According to Article 349, a foreigner's authorisation to stay for humanitarian reasons is refused if there are substantial grounds to believe that:

- they have committed a crime against peace, a war crime or a crime against humanity within the meaning of the international law; or
- they are guilty of acts contrary to the purposes and principles of the United Nations set out in the Preamble and Article 1 and 2 of the Charter of the United Nations; or

- they have committed a crime within the territory of the Republic of Poland or committed an act outside this territory that is a crime under the Polish law; or
- they represent a threat to national security or defence, the protection of public order and safety, or
- they have instigated or otherwise participated in the perpetration of crimes or offences referred to in point 1–3.

Furthermore, a foreigner who, prior to arriving in the territory of the Republic of Poland, has committed an act other than the ones specified in points 1–3 that is an offence under the Polish law and is punishable by imprisonment, may be refused authorisation to stay for humanitarian reasons if they left the country of origin for the sole purpose of avoiding punishment.

Pursuant to Article 350, a foreigner's authorisation to stay for humanitarian reasons is revoked in a situation where:

- the circumstances that caused the permit to be granted have ceased to exist or have changed in such a way that protection is no longer required, or
- the circumstances justifying the refusal to grant the permit arose once it was granted, or
- it is discovered that a foreigner withheld information or documents, or presented false information or documents of significance to granting the permit, or
- a foreigner permanently left the territory of the Republic of Poland, or a foreigner returned to their country of origin.

A foreigner can have their authorisation to stay for humanitarian reasons revoked, if new circumstances revealing that the foreigner has committed an act which, according to Polish law, is a crime punishable by imprisonment arise once it is granted<sup>26</sup>.

By law, a decision authorising a foreigner's stay for humanitarian reasons or authorisation of tolerated stay expires when they are granted refugee status or subsidiary protection or when they become Polish citizens; when they inform a Border Guard authority in writing that they waive their right to exercise their authorisation of stay for humanitarian reasons or tolerated stay, respectively; or when they obtain a permanent residence permit.

### **Entity responsible for carrying out the procedure and issuing a decision**

The authorities competent to conduct the procedure and grant authorisation to stay for humanitarian reasons is the commander of a Border Guard unit or outpost.

### **Appeal procedure**

A body superior to the commander of the Border Guard outpost or unit within the meaning of the Code of Administrative procedure is the Head of the Office for Foreigners. An appeal is submitted through the commander of the Border Guard unit or outpost. Regardless of whether a foreigner may also lodge a complaint with a regional administrative court against a decision obliging them to return, along with a request to halt its enforcement. In both cases the period for voluntary return or the period for compulsory enforcement of this decision is extended until the date of a decision by the Head of the Office for Foreigners or a ruling by a regional administrative court.

### **Documents issued to persons whose stay in Poland was authorised for humanitarian reasons**

A foreigner whose stay in Poland was authorised for humanitarian reasons is issued a residence permit for a period of two years. Once it expires, another permit is issued for the same period. During its validity period, a residence permit confirms the foreigner's identity during their stay within the territory of the Republic of Poland and authorises them to cross the border multiple times with a travel document, without being required to obtain a visa. In the case of a foreigner whose stay was authorised for humanitarian reasons, the residence permit is issued or refused by the commander of the Border Guard unit or outpost which authorised said stay (Article 245). The situation is similar when the document needs to be replaced.

### **Travel document**

The foreigner whose stay was authorised for humanitarian reasons is entitled to receive a travel document if their travel document has been

destroyed or has expired, and it is not possible for them to obtain a new travel document. During its validity period, a Polish travel document issued to a foreigner authorises the said foreigner to cross the border multiple times. A Polish travel document issued to a foreigner is valid for one year from its issuing. Issuing a Polish travel document to a foreigner does not exempt them from the obligation to take measures to obtain a travel document (Article 254). The validity period of a Polish travel document is 1 year.

### **Access to housing**

Similar to asylum beneficiaries, a foreigner whose stay in Poland was authorised for humanitarian reasons is not entitled to aid in the form of being provided with housing or receiving funds to that end. The foreigners' right of access to social or communal housing is subject to the same rules that apply to Polish citizens.

### **Family reunification**

A foreigner whose stay in Poland was authorised for humanitarian reasons may request a temporary residence permit for a family member, provided that they have health insurance, a stable source of regular income sufficient to sustain them and their family members who are or will be dependent on them, and have secured a place of residence within the territory of the Republic of Poland.

Pursuant to Article 159(1) of the Act on foreigners, a family member shall be:

- a person who is married to the foreigner and the marriage is recognized under the law of the Republic of Poland;
- a minor child, including a foster child, of the foreigner and a person whom the foreigner married and the marriage is recognised under the law of the Republic of Poland;
- a foreigner's minor child, also a foster child, being the foreigner's dependant over whom the foreigner exercises actual parental authority;
- a minor being a child of a person referred to in point 1, including an adopted child, who is that person's dependant over whom the foreigner exercises actual parental authority.

26. See: Article 349 (2) of the Act on Foreigners. We are talking about acts committed before arriving on the territory of the Republic of Poland.

27. According to the definition contained in Article 5(4) of the Act of

22 December 2015 on the principles of recognition of professional qualifications acquired in the Member States of the European Union, a regulated profession is a group of professional activities, the performance of which depends on the possession of formal qualifications

### Access to the labour market

Pursuant to Article 87 of the Act of 20 April 2004 on employment promotion and labour market institutions<sup>27</sup> a foreigner is entitled to work in the Republic of Poland if their stay was authorised for humanitarian reasons.

The need to recognise professional qualifications is based solely on general rules on access to certain professions. If access to a given profession is unrestricted, it is the employer who is responsible for confirming qualifications. Access to the exercise of regulated professions<sup>28</sup> is granted to asylum beneficiaries under general national rules<sup>29</sup>.

### Access to healthcare

Every foreigner residing legally in Poland has access to healthcare under the same rules as Polish citizens. A person who is not covered by obligatory health insurance may take out voluntary insurance. For this purpose, they should submit an appropriate application to the National Health Fund with the voivodeship branch of the National Health Fund.

### Access to education

As has already been mentioned above, in Poland each minor is subject to compulsory education and can, in the case of problems to adapt that follow from language problems, attend the so-called preparatory centre or enlist the services of a supporting teacher. Persons whose stay was authorised for humanitarian reasons are not entitled to free higher education at public higher education institutions. As in the case of persons who were granted asylum in Poland, they are not given access to language courses, however, they can apply for a position on free courses organised by non-governmental organisations and foundations.

### Integration programme

Foreigners who have been granted authorisation to

stay for humanitarian reasons are not covered by any integration programme. In Poland such privilege is afforded only to beneficiaries of refugee status and subsidiary protection.

### Expiration or revocation of protection

Pursuant to Article 350 of the Act on Foreigners, authorisation of a foreigner's stay for humanitarian reasons is revoked in a situation where: 1) the circumstances that caused the authorisation to be granted have ceased to exist or have changed in such a way that protection is no longer required, or 2) the circumstances that justified the authorisation's refusal arose after it was granted, or 3) it is discovered that the foreigner withheld information or documents, or presented false information or documents of significance to granting the authorisation, or 4) the foreigner permanently left the territory of the Republic of Poland, or 5) the foreigner returned to their country of origin.

A foreigner can have their authorisation to stay for humanitarian reasons revoked, if the circumstances referred to in Article 349(2) arise once it is granted.<sup>30</sup>

The permit for tolerated stay is withdrawn by decision, e.g. when the foreigner's further stay may pose a threat to the defense or security of the state or the protection of public safety and order, and when the foreigner evades the obligations imposed on them in the decision on granting consent to report to the indicated Border Guard entity or to inform about any change of their place of residence.

Article 354 of the Act on Foreigners states that the decision to authorise a foreigner's stay for humanitarian reasons or a tolerated stay legally expires when:

- they are granted refugee status or subsidiary protection or
- when they become Polish citizens, or
- when they inform a Border Guard authority in writing that they waive their right to exercise their authorisation of stay for humanitarian reasons or

specified in the regulatory provisions necessary to perform these professional activities and, if it is required from the fulfillment of other conditions specified in these regulations. In practice, each EU Member State decides to regulate access to professions. The same profession may be regulated in one EU Member State while it will not be regulated in other Member States.

28. More on: <https://www.gov.pl/web/nauka/uznawanie-kwalifikacji-zawodowych-1>.

29. The provision states as following: A foreigner who, prior to arrival on the territory of the Republic of Poland, has committed an act other than that specified in points 1-3, which according to Polish law is a crime punishable by imprisonment, may be refused permission to stay for humanitarian reasons, if he has left the country of origin solely to avoid punishment.

30. Paweł Dąbrowski, Act of 13 June 2003 on granting protection to foreigners within the territory of the Republic of Poland, Commentary



tolerated stay, respectively, or

- when they obtain a permanent residence permit.

The decision authorising a foreigner's stay for tolerated stay also legally expires when they are granted authorisation of stay for humanitarian reasons.

### **Naturalisation and acquisition of citizenship**

Also in the case of granting foreigners a permit for a humanitarian or tolerated stay, the Act on Polish citizenship of April 2, 2009 applies. In the context of foreigners who have been granted one of the forms of protection in Poland that is not harmonized with international protection, a situation of granting citizenship of the Republic of Poland by the President of the Republic of Poland may arise, and they may also be recognized as a Polish citizen. In the first case, the status is granted at the justified request of the foreigner. On the other hand, recognition as a citizen of the Republic of Poland is based on the decision of the voivode competent for the place of residence of the foreigner, and the applicant is obliged to submit documents confirming the fact of having a stable and regular source of income in Poland and a legal title to living premises. The condition for recognition as a Polish citizen is an uninterrupted stay in the territory of the Republic of Poland on the basis of a permanent residence permit for at least 3 years. A foreigner may also be granted citizenship if he or she has been continuously in the territory of the Republic of Poland for at least 2 years on the basis of a permanent residence permit, but has been married to a Polish citizen for at least 3 years. An important element is the need to submit documents confirming the knowledge of the Polish language acknowledged by an official certificate at the language proficiency level of at least B1, a school leaving certificate in the Republic of Poland or a school leaving certificate abroad with Polish as the language of instruction.

### **Authorisation of tolerated stay**

#### **Procedure**

Pursuant to Article 351 of the Act on foreigners, a foreigner's tolerated stay within the territory of the Republic of Poland shall be authorised if a return obligation for them:

can be exercised solely to the state in which within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms drawn up in Rome on 4 November 1950:

- their right to life, freedom and personal security might be threatened, or
- they could be subject to torture or inhumane or degrading treatment or punishment, or
- they could be subject to forced labour, or
- they could be deprived of the right to fair trial or be punished without a legal basis – if there are reasons for refusing the issuance of a residence permit for humanitarian reasons, as referred to in Article 349, or

is not feasible for reasons beyond the control of the authority responsible for the forced execution of the decision on obliging a foreigner to return and beyond the control of the foreigner, or can be effected only to a country, expulsion to which is inadmissible under a ruling of a court of law or because of a decision of the Minister of Justice on the refusal to expel a foreigner.

In practice, a permit for tolerated stay is issued to foreigners when there is no actual or legal possibility of obliging them to return. What makes it different from authorising the stay for humanitarian reasons is that in the case of a permit for tolerated stay, the foreigners' rights were set at a minimum level. Another significant difference is the fact that in the case of being granted authorisation to stay for humanitarian reasons, the foreigner is not placed on the list of foreigners whose stay within the territory of the Republic of Poland is undesired, as is the case with a permit for tolerated stay (except for when the basis for authorisation was Article 351(1)<sup>31</sup>).

with case law, Warsaw December 2008, p. 798.

<sup>31</sup>. 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.

## STATISTICAL DATA

YEAR	NUMBER OF POSSITIVE DECISIONS	CITIZENSHIP
2018	9	4 Ukraine, 2 Russia, 1 Armenia, 1 Belarus, 1 Tanzania
2017	10	6 Georgia, 2 Russia, 1 Pakistan, 1 Ukraine
2016	15	5 Ukraine, 4 Madagaskar, 2 Belarus, 1 Afghanistan 1 Stateless 1 Nigerii 1 Rosji
2015	12	6 Armenia, 1 Ghana, 1 Ukraine, 1 Russia, 1 Rwanda, 1 Ukraine, 1 Vietnam

### 2.3

One typical case where a permit for tolerated stay can be granted should be highlighted. It refers to a situation where a foreigner is bound by Article 12(2) of the Qualification Directive based on Article 1F of the 1951 Geneva Convention and Article 17 of the Qualification Directive based on exempting the foreigner from eligibility for refugee status or subsidiary protection, on account of them committing a crime against peace, war crime or crime against humanity, committed a serious non-political crime outside the host country, prior to being granted refugee status, is guilty of actions that run against the goals and principles of the United Nations. Where the foreigner still cannot be returned to the country of origin because it would infringe on their rights under the Convention for the Protection of Human Rights and Fundamental Freedoms, such a foreigner is granted a permit for tolerated stay.

Furthermore, Article 358 states that the decision

on granting authorisation for tolerated stay obliges the foreigner to report within set time intervals to the Chief of a Border Guard unit or the Chief of a Border Guard post indicated in the decision or competent for the current place of residence of the foreigner and to notify them of any changes of residence.

Pursuant to the contents of the Article, a foreigner is refused a permit for tolerated stay in cases referred to in Article 351(2) or (3)<sup>33</sup>, if their stay within the territory of the Republic of Poland may pose a threat to national security or defence, or to the protection of public security and order.

The grounds for revoking a permit for tolerated stay is Article 353, according to which the decision to revoke the permit is made when:

- the reason for granting the permit ceases, or
- the foreigner left the territory of the Republic of Poland, or

- the foreigner's stay may pose a threat to national security or defence, or to the protection of public security and order – in the case of a permit for tolerated stay granted pursuant to Article 351 (2) or (3)<sup>34</sup>, or
- the foreigner shirks from the obligations mentioned in Article 358, placed upon them in the decision granting authorisation - in the case of authorisation of tolerated stay granted based pursuant to Article 351(2) or (3)<sup>35</sup>.

Pursuant to Article 354, the decision to authorise a foreigner's stay for humanitarian reasons or a tolerated stay legally expires when:

- they are granted refugee status or subsidiary protection or
- they acquire Polish citizenship, or
- they inform a Border Guard authority in writing that they waive their right to exercise their authorisation of stay for humanitarian reasons or tolerated stay, respectively, or
- they obtain a permanent residence permit.

### **The entity responsible for carrying out the procedure and issuing a decision**

The authorities competent to conduct the procedure and authorise tolerated stay, analogous to the stay for humanitarian reasons, is the commander of a Border Guard unit or outpost. A body superior to the commander of the Border Guard outpost or unit within the meaning of the Code of Administrative procedure is the Head of the Office for Foreigners.

### **Appeal procedure**

Due to the fact that both permit for tolerated stay, as well as authorisation to stay for humanitarian reasons are granted as part of the same procedure obliging a foreigner to return, the appeal procedure in the case discussed will be identical as in the case of authorisation to stay for humanitarian reasons,

meaning that a body superior to the commander of the Border Guard outpost or unit within the meaning of the Code of Administrative procedure is the Head of the Office for Foreigners. An appeal is submitted through the commander of the Border Guard unit or outpost. Regardless of whether a foreigner may also lodge a complaint with a regional administrative court against a decision obliging them to return, along with a request to halt its enforcement. In both cases the period for voluntary return or the period for compulsory enforcement of this decision is extended until the date of a decision by the Head of the Office for Foreigners or a ruling by a regional administrative court.

### **Documents issued to persons whose stay in Poland was authorised for humanitarian reasons**

The document "permit for tolerated stay" (and not the residence permit, like in other cases discussed in this report), is issued to the foreigner who received authorisation of tolerated stay within the territory of the Republic of Poland. Within the period of its validity the document "permit for tolerated stay" shall confirm the identity of the foreigner during their stay within the territory of the Republic of Poland, but it shall not confirm their citizenship. The document "permit for tolerated stay" shall not authorise crossing the border and is valid for the period of 2 years from the date of issue.

Pursuant to Article 277, the body authorised to grant or refuse the issuing of the document "permit for tolerated stay" is the commander of the Border Guard unit or outpost who authorised the foreigner's tolerated stay, while its replacement is granted or refused by the commander of the Border Guard unit or outpost competent for the foreigner's place of residence. In the case when the authorisation of tolerated stay was granted by the Head of the Office or when the Head of the Office issued the decision to issue or replace the document

**32.** (...) The permit for tolerated stay on the territory of the Republic of Poland is granted to a foreigner if the obligation to return them: (...) 2. is impossible for reasons beyond the control of the authority competent to enforce the decision obliging the foreigner to return and from the foreigner, or 3. may only be made to a country to which it is not allowed to issue it under a court decision or due to the decision of the Minister of Justice on refusing to issue a foreigner.

**33.** See above.

**34.** See above.

**35.** Journal of Laws of 2019, item 1482.

**36.** According to the definition contained in Article 5(4) of the Act of 22 December 2015 on the principles of recognition of professional qualifications acquired in the Member States of the European Union, a regulated profession is a group of professional activities, the performance of which depends on the possession of formal qualifications specified in the regulatory provisions necessary to perform these professional activities and, if it is required from the fulfillment of other conditions specified in these regulations. In practice, each EU Member State decides to regulate access to professions. The same profession may be regulated in one EU Member State while it will not be regula-

“consent for tolerated stay”, the document is issued or replaced by the commander of the Border Guard unit or outpost who was the first instance authority ruling on these matters.

### **Travel document**

A foreigner who was granted a permit for tolerated stay is not entitled to receive a travel document.

### **Access to housing**

As is the case with foreigners who were granted authorisation to stay for humanitarian reasons, a foreigner whose tolerated stay in Poland was authorised is not entitled to aid in the form of being provided with housing or receiving funds to that end. The foreigners' right of access to social or communal housing is subject to the same rules that apply to Polish citizens.

### **Family reunification**

A foreigner who was granted a permit for tolerated stay is not authorised to request a temporary residence permit for their family member.

### **Dostęp do rynku pracy**

Pursuant to Article 87 of the Act of 20 April 2004 on employment promotion and labour market institutions<sup>36</sup> a foreigner is entitled to work in the Republic of Poland if their stay was authorised for humanitarian reasons.

The need to recognise professional qualifications is based solely on general rules on access to certain professions. If access to a given profession is unrestricted, it is the employer who is responsible for confirming qualifications. Access to the exercise of regulated professions<sup>37</sup> is granted to asylum beneficiaries under general national rules<sup>38</sup>.

### **Access to healthcare**

Every foreigner residing legally in Poland has access to healthcare under the same rules as Polish citizens. A person who is not covered by obligatory health insurance may take out voluntary insurance. For this purpose, they should submit an appropriate application to the National Health Fund with the voivodeship branch of the National Health Fund.

### **Access to education**

As has already been mentioned multiple times above, in Poland each minor is subject to compulsory education and can, in the case of adaptation problems that follow from language problems, attend the so-called preparatory centre or enlist the services of a supporting teacher. Persons who were granted a permit for tolerated stay are not entitled to free higher education at public higher education institutions. They are also not provided with access to language courses, however, each foreigner legally staying in Poland can apply for a position on free Polish language courses organised by non-governmental organisations and foundations.

### **Integration programme**

Similar as in the case of foreigners who have been granted authorisation to stay for humanitarian reasons, beneficiaries of tolerated stay authorisations are not covered by any integration programme. In Poland, such privilege is afforded only to the beneficiaries of refugee status and international protection.

### **Expiration or revocation of protection**

Pursuant to Article 353, the decision to revoke a foreigner's authorisation to stay for humanitarian reasons is made when:

- the reason for granting the permit ceases, or
- the foreigner left the territory of the Republic of Poland, or
- the foreigner's stay may pose a threat to national security or defence, or to the protection of public security and order – in the case of a permit for tolerated stay granted pursuant to Article 351 (2) or (3), or
- the foreigner shirks from the obligations mentioned in Article 358, placed upon them in the decision granting authorisation - in the case of authorisation of tolerated stay granted based pursuant to Article 351(2) or (3).

Pursuant to Article 354, the decision to grant authorisation to stay for humanitarian reasons or a permit for tolerated stay legally expires when:

- they are granted refugee status or subsidiary protection or

ted in other Member States.

37. More on: <https://www.gov.pl/web/nauka/uznawanie-kwalifikacji>

-zawodowych-1.

38. Trafficking in human beings means recruiting, transporting,

- they acquire Polish citizenship, or
- they inform a Border Guard authority in writing that they waive their right to exercise their authorisation of stay for humanitarian reasons or tolerated stay, respectively, or
- they obtain a permanent residence permit.

The decision authorising a foreigner's stay for tolerated stay also legally expires when they are granted authorisation of stay for humanitarian reasons.

### **Naturalisation and acquisition of citizenship**

These issues are regulated by the Act of 2 April 2009 on Polish citizenship. According to this Act, citizenship is granted to a foreigner who has a stable source of regular income in Poland as well as a legal title to living premises and has continuously resided in the territory of the Republic of Poland on the basis of a permanent residence permit for at least 3 years.

A foreigner can also obtain citizenship if they have continuously resided in the territory of the Republic of Poland for at least 2 years on the basis of a permanent residence permit but has been married to a Polish citizen for at least 3 years.

### **Procedural obstacles and difficulties in the case of authorising the stay for humanitarian reasons or authorising tolerated stay**

The main challenge in the procedures on obliging a foreigner to return, which can result in authorising the stay for humanitarian reasons or tolerated stay, is – apart from political, legal, social and religious aspects – assessing the risk of infringing on values like family and private life, rights of a child (including infringing on the rights of a child to the extent when their mental and physical development is threatened due to removing the child with a parent or removing one of the parents).

In order to streamline administrative procedures in cases that can result in protection against expulsion, 9 unit coordinators for protection against expulsion were established, as a good practice,

on the Border Guard unit level (including one coordinator in a training centre and one coordinator in the Border Guard Headquarters). Their main task is to increase the knowledge on applying the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and case law of the European Court of Justice (ECJ) or the European Court of Human Rights (ECtHR). The coordinators also have to acquire and verify information on how human rights and fundamental freedoms derived from the Convention are respected in the foreigners' countries of origin. Additionally, the coordinators provide advice during the identification of reasons behind authorising stay for humanitarian reasons or tolerated stay. When verifying the information provided by a foreigner, Border Guard authorities use the Office for Foreigners information database of countries of origin, the Austrian Red Cross information database and UNCHR database.

### **Naturalisation and acquisition of citizenship**

When describing the institution of permit for tolerated stay, it is advisable to describe the situation of stateless persons in Poland, whose status may be regulated in the course of the procedure obliging a foreigner to return.

As defined in Article 1 of the 1954 Convention on the Status of Stateless Persons, a stateless person is defined as someone who is not considered as a national by any State under operation of its law. It is worth mentioning that Poland is not a party to the 1954 Convention on the Status of Stateless Persons or the 1961 Convention on the Reduction of Statelessness. Nevertheless, Polish legislation provides for certain tools for the protection of stateless persons. One of the solutions addressed to stateless persons in Poland who do not qualify for refugee status is the institution of tolerated stay. Pursuant to Article 351(2) of the Act on foreigners, a foreigner shall be

handing over, harbouring or hosting of a person with the use of: 1) violence or unlawful threat, 2) abduction, 3) deception, 4) misleading or taking advantage of a misconception or inability to properly comprehend the action taken, 5) abuse of the dependence relationship, exploitation of the person's critical situation or state of helplessness, 6) granting or accepting pecuniary or personal benefit or its promise to a person taking care of or supervising another

person – for the purpose of exploiting such a person, even with their consent, especially for prostitution, pornography or other forms of sexual exploitation, for work or services of a forced nature, for begging, for slavery and for other forms of abuse which are degrading for a human being or in order to obtain cells, tissues or organs in violation of the provisions of the Act. If the perpetrator's behaviour pertains to a minor, it constitutes trafficking in human beings, even if

granted a permit for tolerated stay within the territory of the Republic of Poland if a return obligation for them is not feasible for reasons beyond the control of the authority responsible for the forced execution of the decision on imposing the return obligation on a foreigner and beyond the control of the foreigner. Such a reason in the

case of stateless persons is the absence of the country of origin or the country of last permanent and legal residence. Due to the Polish law lacking a distinct procedure for determining stateless status, the procedure related to obliging a foreigner to return and granting authorisation of tolerated stay remain crucial in this respect.

#### STATISTICAL DATA

YEAR	NUMBER OF POSITIVE DECISIONS	CITIZENSHIP
2018	3	1 Russia 1 Ukraine, 1 not defined / stateless
2017	5	3 ob. Ukraine, 1 ob. Vietnam, 1 not defined / stateless
2016	7	3 ob. Ukraine, 2 ob. Russia, 1 ob. Armenia, 1 not defined / stateless
2015	6	2 ob. Russia, 2 ob. Ukraine, 2 ob. Vietnam

## 2.4

Victims of trafficking in human beings within the meaning of Article 115(22) of the Penal Code<sup>39</sup> are in the group of vulnerable persons. This applies to all victims and presumed victims, regardless of their legal status in Poland. The legalisation instruments described in the following section of the report were introduced to guarantee that victims of human trafficking illegally staying in Poland have access to fundamental rights, e.g. the right to medical assistance.

### Certificate confirming the presumption of being a victim of trafficking

In the Polish legislation, the rules for granting the certificate in question are set out in the Act on foreigners, Article 170 of which states that a foreigner who is presumed to be a victim of trafficking within the meaning of Article 115(22) of the Criminal Code, shall be provided with a certificate confirming the existence of such a presumption.

The certificate implements Article 6 of Council Directive 2004/81/EC on the residence permit issued to third-country nationals<sup>40</sup>, who are victims of trafficking or who have been the subject of an action to facilitate illegal immigration, who cooperate with the competent authorities. In accordance with the Council guidelines, Member States must ensure that the third-country nationals concerned are granted a reflection period to enable them to recover and avoid being influenced by the perpetrators of the offences, so that they can take an informed decision on whether to cooperate with the competent authorities. The requirement to issue a certificate is intended to prevent difficulties in effectively punishing offenders in the event of deportation of victims. The duration and starting date of the certificate shall be determined in accordance with national law. In Poland, such a certificate is valid for a period of 3 months from the date of its issue and in the case of a minor foreigner – for a period of 4 months from its issue date.

# 3

**Forms of foreigner  
protection in Poland  
The case of stateless  
persons**





### 3.0 Forms of foreigner protection in Poland

#### The case of stateless persons

It should also be noted that issuing a certificate confirming the presumption of being a victim of trafficking, which in practice legalises the foreigner's stay in a given Member State, deprives the perpetrators of the criminal offence of a tool for blackmail. Victims of trafficking often choose not to contact the authorities of the country in which they are staying illegally due to being afraid of expulsion from the territory of Poland.

##### **Expiry or withdrawal of protection resulting from possession of a certificate**

The stay of the foreigner referred to in Article 170 shall cease to be considered legal upon the minister competent for internal affairs entering the following information regarding the foreigner into the register of certificates issued to foreigners:

- they actively, voluntarily and on their own initiative re-established contact with any persons suspected of committing the crime of trafficking in human beings, or

- they have crossed or made an attempt to cross the border illegally.

##### **Entity responsible for issuing certificates confirming the presumption of being a victim of trafficking**

The certificate is issued to a foreigner by the authority competent to conduct proceedings on the crime of committing trafficking in human beings, which in practice means the district prosecutor, but also the Police, the Border Guard. To the tasks of the authority conducting the proceedings (read: the Prosecutor) include communicating this fact to the minister competent for internal affairs<sup>42</sup>. It bears mentioning that the certificate is not issued by public administration authorities, which causes the refusal to issue a certificate to be exempt from challenge<sup>43</sup>.



# 4

**Forms of foreigner  
protection in Poland  
Legalising the stay of  
trafficking victims**



## 4.0 Forms of foreigner protection in Poland

### Legalising the stay of trafficking victims

#### Rights of persons who were issued the certificate confirming the presumption of being a victim of trafficking

The foreigner's rights carried by the certificate confirming the presumption of being a victim of trafficking in human beings are:

- the right to legal stay throughout the validity period of the certificate;
- unacceptability of expulsion;
- the right to obtain a Polish identity document<sup>44</sup>;
- the right to an immediate release from a guarded centre or a detention facility for foreigners<sup>45</sup>;
- the right to welfare benefits;
- the right to make use of aid offered by the National Consulting and Intervention Center for the Victims of Trafficking<sup>46</sup>

4.1

Below is the template of the certificate made in accordance with the Ordinance of the Minister of the Interior of 16 April 2014 on the template of the certificate confirming the presumption that a foreigner is a victim of trafficking in human beings.

#### Temporary residence permit for victims of trafficking

According Article 176 [Conditions for granting

a temporary residence permit] of the Act on foreigners, a temporary residence permit for victims of trafficking shall be granted to a foreigner who meets each of the following conditions:

- resides in the territory of the Republic of Poland;
- has started to cooperate with the authority competent to conduct proceedings related to the criminal offence referred to in Article 189a(1) of the Criminal Code and in the case of a minor foreigner – they received the status of aggrieved person in the proceedings related to the criminal offence referred to in Article 189a(1) of the Criminal Code;
- severed all contacts with persons suspected of committing the criminal offence referred to in Article 189a(1) of the Criminal Code.

A temporary residence permit for victims of trafficking in human beings shall be granted for the period of at least 6 months but no longer than 3 years<sup>48</sup>.

A foreigner does not have to show a stable source of regular income, health insurance or place of residence within the territory of the Republic of Poland, as is the case with other temporary residence permits.

Article 179 provides that the body conducting

it did not involve the use of methods or measures listed in points 1–6 of misleading or taking advantage of a misconception or inability to properly comprehend the action taken, 5) abuse of the dependence relationship, exploitation of the person's critical situation or state of helplessness, 6) granting or accepting pecuniary or personal benefit or its promise to a person taking care of or supervising another person – for the purpose of exploiting such a person, even with their consent, especially for prostitution, pornography or other forms of sexual exploitation, for work or services of a forced nature, for begging, for slavery and for other forms of abuse which are degrading for a human being or in order to obtain cells, tissues or organs in violation of the provisions of the Act. If the behaviour of a perpetrator involves a minor, it constitutes trafficking in human beings, irrespective of whether the methods or means listed in paragraphs 1 to 6 were used or not.

**39.** Particularly noteworthy is the fact that the certificate is issued exclusively to third-country nationals, which – according to the definition quoted in this report – means any person who is not a citizen

of the European Union and who is not a person enjoying the European Union right to free movement..

**40.** Beck comments, Act on foreigners, p. 495.

**41.** Article 174 of the Act on foreigners.

**42.** Beck comments, Act on Foreigners, p. 496-7.

**43.** Article 260 of the Act on foreigners.

**44.** Article 406(1)(4) of the Act on foreigners.

**45.** The National Consultation and Intervention Centre is implemented as a public task commissioned to non-governmental organisations by the minister competent for internal affairs and is financed entirely from the state budget.

**46.** Article 170, Act on foreigners.

**47.** Article 98(2) of the Act on foreigners.

**48.** SI Pobyć – national set of registers, records and lists concerning foreigners.

**49.**

the proceedings for granting a temporary residence permit to a foreigner who is a victim of trafficking in human beings provides a foreigner who does not have sufficient command of the Polish language with the assistance of an interpreter. This provision follows from the implementation of Article 7(3) of Directive 2004/81, which states that Member States shall provide the third-country nationals concerned, where appropriate, with translation and interpreting services.

The permit may be revoked when the purpose for the stay expired or the foreigner ceased to fulfil the requirements necessary for granting the aforementioned permit. Permits, especially when the foreigner ceased to cooperate with law enforcement authorities, when justified by national security or defence, or by the protection of public safety and order, or when the data they provided in the course of the proceeding was untrue or false, or they concealed the truth.

IT system<sup>49</sup>. A small number of temporary residence permits issued to trafficking victims is related to the fact that foreigners who decided to remain in Poland want to completely break away from their past, avoid being potentially stigmatised in the future, being listed in the registers of persons who were victims of trafficking and, if possible, they opt for other forms of legalising their stay.

### **Statistical data**

Despite the identification of victims of trafficking, such permits are issued relatively rarely, and their exact number is difficult to determine due to the lack of consistency of data entered into the SI Pobyt

50. Communication from the Commission to the European Parliament, the Council, the European Economic And Social Committee and the Committee of the Regions, A European Agenda on Migration, 13th May 2015, COM(2015) 240 final.

51. European Council meeting (25 and 26 June 2015), Conclusions, 26th June 2015, EUCO 22/15.

52. Communication from the Commission to the European Parliament and to the Council, EU Action Plan on Return, op.cit.

## WZÓR

organ wydający zaświadczenie

.....

Miejscowość, data

### ZAŚWIADCZENIE

Na podstawie art. 170 ustawy z dnia 12 grudnia 2013 r. o cudzoziemcach (Dz. U. poz. 1650 oraz z 2014 r. poz. 463) zaświadcza się, że istnieje domniemanie, że:

Pan/Pani

.....

Imię (imiona) i nazwisko

urodzony/a

.....W

.....

(data urodzenia)

(miejsce i państwo urodzenia)

Obywatelstwo.....Płeć

.....

jest ofiarą handlu ludźmi w rozumieniu art. 115 § 22 ustawy z dnia 6 czerwca 1997 r.   
Kodeks karny.

W związku z powyższym pobyt ww. na terytorium Rzeczypospolitej Polskiej uważa się za legalny przez okres ważności wydanego zaświadczenia.

Zaświadczenie jest ważne przez okres 3 miesięcy/ 4 miesięcy<sup>□</sup> od dnia jego wydania.

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Zgodnie z art. 172 ust. 2 ustawy z dnia 12 grudnia 2013 r. o cudzoziemcach (Dz. U. poz. 1650) zaświadczenie jest ważne przez okres 3 miesięcy od dnia jego wydania, a w przypadku małoletniego cudzoziemca przez okres 4 miesięcy od dnia jego wydania.

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## STATYSTYKI

ROK	LICZBA POZYTYWNYCH DECYZJI	OBYWATELSTWO
2019 (1 stycznia – 15 października)	114	92 ob. Filipin 8 ob. Ugandy 5 ob. Sierra Leone 4 ob. Gruzji 3 ob. Gwinei 1 ob. Wietnamu 1 ob. Ukrainy
2018	3	2 ob. Wietnamu 1 ob. Białorusi
2017	12	8 ob. Ukrainy, 2 ob. Wietnamu, 1 ob. Nigerii 1 ob. Białorusi
2016	23	21 ob. Ukrainy, 1 ob. Wietnamu 1 ob. Kongo
2015	33	23 ob. Wietnamu, 4 ob. Ukrainy, 4 ob. Sri Lanki 2 ob. Maroko

## 4.2



54. Communication on a More Effective Return Policy in the European Union – a Renewed Action Plan, *op. cit.*, and Commission

Recommendation on making returns more effective when implementing Directive 2008/115/EC, 2nd March 2017, C(2017) 1600.





## Conclusion



## Conclusion

Apart from the forms of protection harmonised with EU law, Poland has a number of national institutions that safeguard the rights of foreigners and protect them from negative consequences of expulsion. The most often used form of national protection is authorisation of stay for humanitarian reasons, issued when expulsion would infringe on the foreigner's right to family or private life or would infringe on the rights of a child specified in the Convention on the Rights of the Child. In practice, this applies to the group of foreigners who lead family lives in Poland or have children who have largely become integrated with the society.

All decisions related to the legalisation of the foreigners' stay in Poland are preceded by an examination procedure which obligates the authority in charge of the proceeding to turn to the commander of the Border Guard unit, voivodeship commander of the Police, Head of the Internal Security Agency,

and, if needed, also to other authorities, requesting information on whether the applicant or the persons represented by the applicant, have been subject to specific circumstances related to such matters as state security and public order.

The procedure for granting a residence permit of a long-term EU resident is denied to a foreigner who, on the day of applying for this permit, stays in the territory of the Republic of Poland in connection with having obtained one of the national forms of protection, i.e.: authorisation of stay for humanitarian reasons, permit for tolerated stay or asylum.

The national forms of protection in place in Poland complement the institution of international protection harmonised with the EU law, whose application in certain cases is not possible.





Annex





# Annex

TABLE 1

Applications for asylum in the Republic of Poland according to SI POBYT, registered until September 19, 2019.

CITIZENSHIP	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Razem
AFGANISTAN	0	0	0	0	0	0	0	0	0	0	16
ALBANIA	1	0	0	0	0	0	0	0	0	0	2
ALGERIA	0	0	0	0	1	0	0	0	0	0	5
ARMENIA	0	0	0	0	0	0	0	0	0	1	23
AZERBEJDŻAN	0	0	0	0	0	0	0	0	0	0	10
B. J. REPUBLIKA MACE- DONII	0	0	0	0	0	0	0	0	0	0	2
BANGLADESZ	0	0	0	0	0	1	0	0	0	0	22
BEZ OBYWATELSTWA	0	2	0	0	0	0	0	0	3	0	8
BIAŁORUŚ	1	0	1	0	0	0	4	2	2	0	38
BOŚNIA I HERCEGOW- INA	0	0	0	0	0	0	0	0	0	0	2
BUŁGARIA	0	0	0	0	0	0	0	0	0	0	1
CHINY	0	0	0	0	0	0	0	0	0	0	3
EGIPT	0	0	0	0	0	1	0	1	0	0	4
ERYTREA	0	0	0	0	0	0	0	0	0	0	1
ESTONIA	0	0	0	0	0	0	0	0	0	0	1
ETIOPIA	0	0	0	0	0	0	0	0	0	0	1
FINLANDIA	0	0	0	0	0	0	0	0	0	2	2
GAMBIA	0	1	0	0	0	0	0	0	0	0	1
GRUZJA	0	2	1	0	0	0	2	0	0	1	8
INDIE	0	1	0	0	0	0	0	0	0	0	1
IRAK	0	0	0	0	0	0	0	0	0	0	4
IRAN	0	0	0	0	0	0	0	0	0	0	10
IZRAEL	0	0	0	0	0	0	0	0	1	0	1
KAMBODŻA	0	0	0	0	0	0	0	0	0	0	1
KAMERUN	0	0	0	2	0	0	0	0	0	0	2
KAZACHSTAN	0	0	0	0	1	0	0	0	0	0	7

CITIZENSHIP	2010	2011	2012	2013	2014	2015	2016	2017	2018	2019	Razem
KONGO (POPRZEDNIO ZAIR)	0	0	0	0	0	0	0	0	0	0	1
KUBA	0	0	0	0	0	0	0	1	0	0	2
LIBIA	0	0	0	0	0	0	1	0	0	0	1
LITWA	0	0	0	0	0	0	0	0	0	1	1
MAURETANIA	0	0	0	0	0	0	0	0	0	0	1
MOŁDOWA	0	0	1	0	0	0	0	0	0	1	5
MONGOLIA	0	0	0	0	0	0	0	0	0	0	2
NIEMCY	0	0	0	0	0	0	0	0	0	0	3
NIEOKREŚLONY	0	0	0	0	0	0	0	0	0	0	1
NIGERIA	0	0	0	0	0	0	0	0	0	0	1
NORWEGIA	0	0	0	0	0	0	0	4	0	0	4
PAKISTAN	0	0	0	0	0	0	0	1	0	0	2
REPUBLIKA POŁUDNIO-WEJ AFRYKI	0	0	0	0	0	0	0	0	0	1	1
ROSJA	0	0	1	1	2	4	9	8	13	7	72
RUMUNIA	0	0	0	0	0	0	0	0	0	0	2
SERBIA I CZARNOGÓRA	0	0	0	0	0	0	0	0	0	0	6
SŁOWACJA	0	0	0	0	0	0	0	0	0	0	1
SYRIA	0	0	0	0	0	0	0	0	0	0	3
SZWECJA	0	0	0	0	0	0	0	0	1	0	2
TADŻYKISTAN	0	0	0	0	0	0	0	0	1	0	2
TOGO	0	0	0	0	0	0	0	0	0	0	1
TUNEZJA	0	0	0	0	0	1	0	0	0	0	1
TURCJA	0	0	0	1	0	0	0	1	2	2	7
UKRAINA	0	0	1	1	0	111	10	2	2	1	148
UZBEKISTAN	0	0	0	0	0	0	0	0	0	0	1
WIETNAM	0	0	0	0	0	0	1	1	0	0	4
<b>SUMA KOŃCOWA</b>	<b>2</b>	<b>6</b>	<b>5</b>	<b>5</b>	<b>4</b>	<b>118</b>	<b>27</b>	<b>21</b>	<b>25</b>	<b>17</b>	<b>451</b>

**TABLE 2**

Decisions on granting asylum in the Republic of Poland according to SI POBYT registered until September 19, 2019r.

OBYWATELSTWO	2013	2015	2016	2017	2019	RAZEM
BIAŁORUŚ	1	0	0	1	0	2
NORWEGIA	0	0	0	0	2	2
ROSJA	0	1	0	0	0	1
UKRAINA	0	55	54	0	0	109
SUMA KOŃCOWA	1	56	54	1	2	114

**TABLE 3**

Number of people who in 2016 received permission to stay in the first or second instance for humanitarian reasons in individual cases (by type of case and citizenship).

OBYWATELSTWO	POBYT TOLEROWANY			POBYT ZE WZGLĘDÓW HUMANITARNYCH			ZOBOWIĄZANIE CUDZOZIEMCA DO POWROTU			RAZEM
	K	M	RAZEM	K	M	RAZEM	K	M	RAZEM	
AFGANISTAN	-	-	0	-	1	1	-	-	0	1
ARMENIA	-	-	0	-	-	0	7	11	18	18
BEZ OBYWATELSTWA	-	-	0	1	-	1	1	1	2	3
BIAŁORUŚ	-	-	0	1	1	2	-	3	3	5
CHINY	-	1	1	-	-	0	-	-	0	1
GRUZJA	-	-	0	-	-	0	5	5	10	10
KOLUMBIA	-	-	0	-	-	0	-	1	1	1
KOSOWO	-	-	0	-	-	0	1	-	1	1
MADAGASKAR	-	-	0	2	2	4	-	-	0	4
MONGOLIA	-	-	0	-	-	0	-	1	1	1
NEPAL	-	-	0	-	-	0	1	-	1	1
NIEOKREŚLONY	-	-	0	-	-	0	-	2	2	2
NIGERIA	-	-	0	-	1	1	-	-	0	1
ROSJA	-	-	0	1	-	1	7	5	12	13
STANY ZJEDNOCZONE AMERYKI	-	-	0	-	-	0	1	-	1	1
TADŻYKISTAN	-	-	0	-	-	0	1	1	2	2
TURCJA	-	-	0	-	-	0	-	2	2	2
UKRAINA	-	-	0	2	3	5	49	53	102	107
WIETNAM	-	-	0	-	-	0	1	2	3	3
SUMA	0	1	1	7	8	15	74	87	161	177

**TABLE 4**

Number of people who in 2016 received a tolerated stay permit in the first or second instance

OBYWATELSTWO	OCHRONA MIĘDZYNARODOWA			POBYT TOLEROWANY			ZOBOWIĄZANIE CUDZOZIEMCA DO POWROTU		
	K	M	RAZEM	K	M	RAZEM	K	M	RAZEM
ARMENIA	2	3	5	-	1	1	-	-	0
BEZ OBYWATELSTWA	-	1	1	-	1	1	-	-	0
BIAŁORUŚ	2	1	3	-	-	0	-	-	0
EGIPT	1	1	2	-	-	0	-	-	0
GRUZJA	2	1	3	-	-	0	-	-	0
KAMERUN	-	1	1	-	-	0	-	-	0
KAZACHSTAN	2	2	4	-	-	0	-	-	0
KIRGISTAN	1	3	4	-	-	0	-	-	0
PAKISTAN	-	1	1	-	-	0	-	-	0
ROSJA	17	22	39	-	2	2	1	-	1
RWANDA	1	-	1	-	-	0	-	-	0
TADŻYKISTAN	1	-	1	-	-	0	-	-	0
UKRAINA	1	-	1	-	3	3	-	-	0
SUMA	30	36	66	0	7	7	1	0	1

**TABLE 5**

Number of people who in 2017 received permission to stay in the first or second instance for humanitarian reasons in individual cases (by type of case and citizenship)

OBYWATELSTWO	POBYT TOLEROWANY			POBYT ZE WZGLĘDÓW HUMANITARNYCH			ZOBOWIĄZANIE CUDZOZIEMCA DO POWROTU			RAZEM
	K	M	RAZEM	K	M	RAZEM	K	M	RAZEM	
ALGERIA	-	-	0	-	-	-	-	1	1	1
ANGOLA	-	-	0	-	-	-	1	-	1	1
ARGENTYNA	-	-	0	-	-	-	-	1	1	1
ARMENIA	-	-	0	-	-	-	3	7	10	10
AZERBEJDŻAN	-	-	0	-	-	-	2	1	3	3
BANGLADESZ	-	-	0	-	-	-	-	2	2	2
BEZ OBYWATELSTWA	-	-	0	-	-	-	2	-	2	2
BIAŁORUŚ	-	-	0	-	-	-	-	2	2	2
FILIPINY	-	-	0	-	-	-	-	1	1	1
GRUZJA	-	-	0	4	2	6	1	1	2	8
KAZACHSTAN	-	-	0	-	-	-	-	1	1	1
KUBA	-	-	0	-	-	-	-	1	1	1
MEKSYK	-	-	0	-	-	-	1	-	1	1
MOŁDAWIA	-	-	0	-	-	-	-	1	1	1
MONGOLIA	-	-	0	-	-	-	-	1	1	1
NIEOKREŚLONY	-	-	0	-	-	-	2	-	2	2
PAKISTAN	-	-	0	-	1	1	-	-	-	1
ROSJA	-	-	0	1	1	2	13	13	26	28
TADŻYKISTAN	-	-	0	-	-	-	-	1	1	1
TUNEZJA	-	-	0	-	-	-	1	-	1	1
UKRAINA	-	-	0	1	-	1	73	38	111	112
UZBEKISTAN	-	-	0	-	-	-	-	1	1	1
WIETNAM	-	-	0	-	-	-	1	1	2	2
<b>SUMA</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>6</b>	<b>4</b>	<b>10</b>	<b>100</b>	<b>74</b>	<b>174</b>	<b>184</b>

**TABLE 6**

Number of people who in 2017 received a permit for tolerated stay in individual cases in the first or second instance (by type of case and citizenship).

OBYWATELSTWO	OCHRONA MIĘDZYNARODOWA			POBYT TOLEROWANY			ZOBOWIĄZANIE CUDZOZIEMCA DO POWROTU		
	K	M	RAZEM	K	M	RAZEM	K	M	RAZEM
BEZ OBYWATELSTWA	-	-	-	-	1	1	-	-	0
BIAŁORUŚ	-	2	2	-	-	-	-	-	0
GWINEA	-	1	1	-	-	-	-	-	0
NIGERIA	-	1	1	-	-	-	-	-	0
PAKISTAN	-	1	1	-	-	-	-	-	0
ROSJA	15	13	28	-	-	-	-	-	0
SUDAN	-	1	1	-	-	-	-	-	0
UKRAINA	3	1	4	1	2	3	-	-	0
WIETNAM	-	-	-	-	1	1	-	-	0
SUMA	18	20	38	1	4	5	0	0	0

**TABLE 7**

Number of people who in 2018 received a residence permit in the first or second instance for humanitarian reasons

OBYWATELSTWO	POBYT ZE WZGLĘDÓW HUMANITARNYCH			ZOBOWIĄZANIE CUDZOZIEMCA DO POWROTU			RAZEM
	K	M	RAZEM	K	M	RAZEM	
ANGOLA	0	0	0	0	1	1	1
ARMENIA	0	1	1	7	6	13	14
AZERBEJDŻAN	0	0	0	0	1	1	1
BANGLADESZ	0	0	0	0	1	1	1
BEZ OBYWATELSTWA	0	0	0	1	2	3	3
BIAŁORUŚ	0	1	1	2	1	3	4
BRAZYLIA	0	0	0	1	0	1	1
GRUZJA	0	0	0	1	0	1	1
KAZACHSTAN	0	0	0	1	0	1	1
KENIA	0	0	0	0	1	1	1
KIRGISTAN	0	0	0	8	5	13	13
NIEOKREŚLONE	0	0	0	1	1	2	2
ROSJA	2	0	2	23	21	44	46
TADŻYKISTAN	0	0	0	2	0	2	2
TANZANIA	0	1	1	0	0	0	1
TUNEZJA	0	0	0	0	1	1	1
TURCJA	0	0	0	2	5	7	7
UKRAINA	1	3	4	34	35	69	73
WIETNAM	0	0	0	1	3	4	4
SUMA	3	6	9	84	84	168	177

**TABLE 8**

Liczba osób, które w 2018 r. otrzymały w I lub II instancji zgodę na pobyt tolerowany w poszczególnych sprawach (wg typu sprawy i obywatelstwa).

CITIZENSHIP	INTERNATIONAL PROTECTION			TOLERATED STAY			HUMANITARIAN STAY			RETURN DECISION		
	F	M	TOTAL	F	M	TOTAL	F	M	TOTAL	F	M	TOTAL
STATELESSNESS	0	0	0	0	0	0	0	1	1	0	0	0
GEORGIA	6	11	2	0	0	0	0	0	0	0	0	0
NOT DEFINED	0	0	1	0	1	1	0	0	0	0	1	1
RUSSIA	4	7	1	0	1	1	0	0	0	0	0	0
UKRAINE	2	0	1	0	1	1	0	0	0	0	0	0
<b>TOTAL</b>	<b>12</b>	<b>18</b>	<b>28</b>	<b>0</b>	<b>3</b>	<b>3</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>0</b>	<b>1</b>	<b>1</b>

**TABLE 9**

Number of people who in the first half of 2019 received a tolerated stay permit in the first or second instance in individual cases (by type of case and citizenship)

OBYWATELSTWO	OCHRONA MIĘDZYNARODOWA			POBYT TOLEROWANY			ZOBOWIĄZANIE CUDZOZIEMCA DO POWROTU			RAZEM
	K	M	RAZEM	K	M	RAZEM	K	M	RAZEM	
STATELESSNESS	0	0	0	0	1	1	0	0	0	1
BELARUS	0	0	0	0	1	1	0	0	0	1
NOT DEFINED	0	0	0	0	0	0	0	1	1	1
RUSSIA	0	2	2	0	0	0	0	0	0	2
<b>SUMA</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>2</b>	<b>2</b>	<b>0</b>	<b>1</b>	<b>1</b>	<b>5</b>



**TABLE 10**

Number of people who in the first half of 2019 received a residence permit in the first or second instance for humanitarian reasons

CITIZENSHIP	HUMANITARIAN STAY			ZOBOWIĄZANIE CUDZOZIEMCA DO POWROTU			TOTAL
	F	M	TOTAL	F	M	TOTAL	
ARMENIA	0	0	0	1	0	1	1
BRASIL	0	0	0	1	0	1	1
GEORGIA	0	0	0	2	2	4	4
CONGO	0	0	0	1	0	1	1
NIGERIA	0	0	0	1	0	1	1
PAKISTAN	0	0	0	0	1	1	1
RUSSIA	2	4	6	15	15	30	36
SYRIA	0	0	0	0	1	1	1
TAJIKISTAN	6	1	7	0	0	0	7
UKRAINE	0	0	0	26	11	37	37
VIETNAM	0	1	1	0	1	1	2
TOTAL	8	6	14	47	31	78	92



