

# Entry ban and readmission

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## Poland's entry bans policy and use of readmission agreements

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



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Point to the European Migration Network  
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This National Report was prepared by the Ministry of the Interior acting as the coordinator of the National Contact Point to the European Migration Network in Poland (PL NCP EMN) and constitutes a compilation of replies, which have been provided - on the request of the Migration Policy Department (Ministry of the Interior) - by the staff of respective institutions: Border Guard, Office for Foreigners and International Organisation for Migration - office in Warsaw. This Report follows the common specifications and methodology prepared by the European Migration Network (EMN).



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Should a return decision be issued, a foreigner is obliged to leave the territory Poland. However, leaving Poland and entering the territory of another Schengen area state does not mean that the decision was executed. Enforcement of the return decision results in entering the foreigner's data into the SIS system for the purposes of refusing entry. Thus, the entry ban becomes valid not only within the territory of Poland, but also in other countries of the Schengen area.

## Top-line “Factsheet”

The aim of this focused study of the European Migration Network is to summarize the major challenges faced by national authorities competent for the organization and conduct of effective and sustainable returns of third country nationals in an irregular situation. This study relates in particular to two return measures: entry bans and readmission agreements. To a limited extent, the study also refers to the synergy between entry bans and readmission agreements on the one hand, and the possibility of providing assistance to foreigners during their reintegration in the country to which they return on the other hand.

The overall objective of this study is to understand the extent to which EU Member States, including Poland, use entry bans and readmission agreements in order to strengthen national return policies toward foreigners. At present, little is known about the way in which Member States use entry bans (and, to a slightly broader extent, readmission agreements), and about the effectiveness of their return measures to the country of origin of foreigners in an irregular situation. This issue has already been partially addressed at the EU level in 2011, when the Working Group on Integration, Migration and Expulsion/ Joint Committee prepared two analyses of practices of EU Member States regarding:

- conditions in which entry ban can be imposed and the means through which Member States can gain quick access to information concerning the prohibition of entry [note No. 15703/11 of 26 October 2011] and
- assisted voluntary returns of third country nationals [note No. 15702/ 11 of 26 October 2011].

The indicated documents identified four important mechanism for applying the entry ban to foreigners, i.e.:

- the entry ban is used regardless of the decision

- requiring an alien to return, or
- the entry is issued upon the decision requiring the return or at a specified time,
- the entry ban is issued upon confirmation of the alien's departure, or
- the entry ban is issued after the closure of all routes of appeal from a return decision. It has been indicated that the above models may change very often. Information about the application of an entry ban in relation to a foreigner is transmitted primarily through national SIRENE bureaux.

As stated in the adopted by the Council of Ministers in 2012 programme document entitled “Migration policy of Poland – the current state of play and further actions”, an important element of combating illegal migration is organization and promotion of information campaigns in countries whose nationals most often infringe Polish rules on entry and residence regarding opportunities for legal entry and residence in Poland, as well as the consequences of illegal migration, including the use of entry bans. The effectiveness of both border control and control measures implemented in the country has been emphasized. The importance of continuous support for Poland in terms of concluding readmission agreements, both bilateral and multilateral and involving the European Union has also been indicated, since these contracts provide a mechanism allowing an effective return of foreigners to their countries of origin. Furthermore, the document states that the implementation of expulsions under the readmission agreements must increasingly take into account the cooperation with EU countries and the support of the European Agency for the Management of Operational Cooperation at the External Borders of the European Union (FRONTEX Agency). A new

element entered into recommendations to improve the effectiveness of the return policy consists in ensuring the possibility of the use of reintegration assistance by foreigners whose returns are entirely organized by the Office for Foreigners [at the

moment, these aliens do not receive reintegration assistance in their countries of return], as well as systematic research on the effectiveness of voluntary returns and reintegration assistance.

# 1

## Entry bans

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## 1.0 Entry bans

### 1.1 National legal framework on entry bans: grounds for imposition of entry bans and categories of third-country national subject to entry bans

1. In Poland, which scenario applies to the imposition of entry bans?

a) Entry bans are automatically imposed in case the return obligation has not been complied with OR no period of voluntary departure has been granted

Yes.

b) Entry-bans are automatically imposed on all return decisions other than under a)

No. In addition to situations indicated in point a),

entry ban is imposed automatically if the period for voluntary return has been set and the foreigner illegally crosses the border, or attempts to illegally cross the border during this period.

a) Entry bans are issued on a case by case basis on all return decisions other than under a)

No.

2a. What are according to national legislation in Poland the grounds for imposing entry bans?

TABLE 1.1

Grounds for imposing entry bans

Grounds for imposing entry bans	Yes/No	Please provide information on the criteria/ indicators used to decide whether particular grounds apply in individual cases
Risk of absconding <sup>1</sup>	Yes	A foreign national is particularly likely to abscond if he/she: <ul style="list-style-type: none"> <li>• has declared disobedience to the decision on imposing the return obligation on a foreigner [further: return decision], or</li> <li>• does not hold any documents certifying his/her identity, or</li> <li>• has crossed or attempted to cross the border in violation of the law, or</li> </ul>


1. As stipulated in the Return Directive Article 11 (1) (a) in combination with Article 7(4).

- entered the territory of the Republic of Poland while being listed among foreigners whose stay on the territory of Poland is undesirable, or while being listed in the Schengen Information System for the purpose of refusing entry.

The third-country national concerned poses a risk to public policy, public security or national security <sup>2</sup>	Yes	The above is applied when it is necessary for safeguarding national security or public safety and order.
The application for legal stay was dismissed as manifestly unfounded or fraudulent <sup>3</sup>	No	
The obligation to return has not been complied with <sup>4</sup>	Yes	The decision specifying the deadline of voluntary return introduces an entry ban should the foreign national: <ul style="list-style-type: none"> <li>• fail to leave the territory of the Republic of Poland,</li> <li>• cross or attempt to cross the border in violation of the law.</li> </ul>

## 2b. What are the national grounds based upon which Poland can decide not to issue an entry ban?

**TABLE 1.2**  
Grounds for not imposing entry bans

Grounds for not imposing entry bans	Yes/No	Please provide information on the criteria/ indicators used to decide whether particular grounds apply in individual cases
 <p><b>Humanitarian reasons</b></p>	When it is justified, an alien may be granted permission to stay for humanitarian reasons, or a tolerated stay permit. Return decisions are not issued to foreigners who have obtained a residence permit for humanitarian reasons or a tolerated stay permit.	<p>An alien shall be granted authorization to stay on the territory of the Republic of Poland for humanitarian reasons if his/her return:</p> <ul style="list-style-type: none"> <li>• may only be conducted into a country where, within the meaning of the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950,</li> <li>• his/her right to life, liberty and safety may be threatened, or</li> <li>• he/she may be subjected to torture or to inhuman or degrading treatment or punishment, or</li> <li>• he/she may be forced to work, or</li> <li>• he/she may be deprived of the right to a fair trial or punished without a legal basis.</li> </ul>

2. As stipulated in the Return Directive Article 11 (1) (a) in combination with Article 7(4).

3. As stipulated in the Return Directive in Article 11(1)(a) in combination with Article 7(4).

4. As stipulated in the Return Directive Article 11(1)(b).



### Right to family life (Article 8 ECHR)

When it is justified, an alien may be granted permission to stay for humanitarian reasons, or a tolerated stay permit. Return decisions are not issued to foreigners who have obtained a residence permit for humanitarian reasons or a tolerated stay permit.

A foreigner shall be granted authorization to stay on the territory of the Republic of Poland for humanitarian reasons if his/her return contravenes the right to family life, as defined in the Convention for the Protection of Human Rights and Fundamental Freedoms signed in Rome on 4 November 1950.



### Health reasons

No

## 3. Please provide a short overview of the categories of third-country national that can be issued an entry ban

**TABLE 1.3**  
Categories of third-country national who can be issued an entry ban

Categories of third-country national who can be issued an entry ban <sup>5</sup>	Who comply voluntarily with return decision (Y/N)	Who do not cooperate with return decision (Y/N)
<b>Third-country nationals staying illegally on the territory of a Member State (including residence/visa over-stayers, rejected applicants for international protection, third-country nationals who entered the territory illegally)</b>	Yes. Decisions on entry ban are taken on the basis of circumstances analysed separately in each case.	Yes. Should one of the conditions specified in Table 1.1 be met.
<b>Third-country nationals who are subject to a refusal of entry in accordance with Article 13 of the Schengen Borders Code</b>	No	
<b>Third-country nationals who are apprehended or intercepted by the competent authorities in connection with the irregular crossing by land, sea or air of the external border of a Member State and who have not subsequently obtained an authorisation or a right to stay in that Member State</b>	No	Yes. Should one of the conditions specified in Table 1.1 be met.
<b>Third-country nationals who are subject to return as a criminal law sanction or as a consequence of a criminal law sanction</b>	Yes	Yes. Should one of the conditions specified in Table 1.1 be met.

5. Based on Article 2 Return Directive.



**4. Specify the territorial scope of entry bans that are imposed by Poland, i.e. do they apply to the entire EU territory or do they only cover the national territory of Poland?**

All answers provided in this questionnaire relate to the entry ban within the meaning of Return Directive covering the territory of all EU Member States. It is possible to impose a ban on entering the territory of all EU Member States and on entering the territory of the Republic of Poland only. In cases where the Directive imposes an obligation to issue an entry ban, the entry ban covers the territories of all EU Member States.

**5. Which institution(s) in Poland decides whether or not to issue an entry ban on third-country nationals who are the subject of a return decision?**

In Poland, the body authorized to decide on issuing entry bans for third-country nationals subject to a return decision is the authority issuing decisions on imposing the return obligation on a foreigner, i.e. the commanding officer of the Border Guard post, or the commanding officer of the Border Guard unit.

**1.2 Practical application of entry bans**

**6. Who informs third-country nationals of the imposition of the entry ban and what procedure is used to convey this information?**

In practice, aliens obtain information about the entry ban being imposed on him/her and the period of its validity in the return decision [decision on imposing the return obligation]. A foreigner can obtain this kind of information also alternatively, at any time and upon his/her request submitted to the Office for Foreigners. This information is stored in a database on foreigners [the so-called national collection of registers, records and the list in the cases of foreigners and held by Head of the Office for Foreigners pursuant to the provisions of Article 449 of the Act of 12 December 2013 on foreigners].

In accordance with the provisions of Article 321 of the Act of 12 December 2013 on foreigners, the Head of the Office for Foreigners is the appeal authority [within the meaning of the Administrative Code of 14 June 1960, Journal of Laws 2013 item 267], in relation to the commanding officer of the Border Guard post or the commanding officer of the Border Guard unit in matters regarding return decisions issued to foreigners.




In accordance with the provisions of Article 52 of the Act of 30 August 2002 – the Law of the Administrative Courts Procedure [Journal of Laws 2002 no 153, item 1270], after exhausting the course of the appeal proceedings, the foreigner may lodge a complaint in the Voivodeship Administrative Court [WSA].

**7. Do third-country nationals who have been imposed an entry ban have the possibility to appeal the decision?**

Yes. The decision on prohibition re-entry forms part of the return decision. An alien may appeal against the decision to the Head of the Office for Foreigners.

**8. Please indicate whether entry bans can be withdrawn or suspended in Poland, specifying the categories of third country national who may be withdrawn/suspended from an entry ban, and explain the circumstances or reasons for this.**

**TABLE 1.4**  
Withdrawal and suspension of entry bans

Categories of third-country national who can be exempted from an entry ban	Entry ban can be withdrawn or suspended (Y/N)	If yes, please provide information on the criteria/indicators used
 <p><b>Third-country nationals who can demonstrate that they have left the territory of the member State in full compliance with a return decision</b></p>	Yes	<p>The competent authority which has issued the decision on imposing the return obligation [return decision] can, at the request of the foreigner and on the basis of a decision, withdraw the refusal referred to in Article 318 (1) of the Act of 12 December 2013 on foreigners (entry ban), provided that the foreigner proves the following:</p> <ul style="list-style-type: none"> <li>• he/she has met the obligations arising from the return decision, or</li> <li>• his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or</li> <li>• he/she has been granted assistance for voluntary return.</li> </ul> <p>However the ban referred to in Article 318 (1) shall not be withdrawn if:</p> <ul style="list-style-type: none"> <li>• the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or</li> <li>• the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.</li> </ul>
 <p><b>Victims of trafficking in human beings who have been granted a residence permit pursuant to Council Directive 2004/81/EC (provided they do not represent a threat to public policy, public security or national security)</b></p>	Yes	<p>The validity of the entry into the register shall be suspended if:</p> <ul style="list-style-type: none"> <li>• the foreigner stays on the territory of the Republic of Poland on the basis of a certificate confirming the presumption that he/she is a victim of trafficking in human beings,</li> <li>• proceedings are pending in relation to granting to the foreigner a residence permit for humanitarian reasons, a tolerated stay permit or authorization for temporary stay for victims of trafficking in human beings.</li> </ul>
 <p><b>Minors</b></p>	Yes	<p>The competent authority which has issued the return decision can, at the request of the foreigner and on the basis of a decision, withdraw the refusal referred to in Article 318 (1) of the Act of 12 December 2013 on Foreigners (entry ban), provided that the foreigner proves the following:</p> <ul style="list-style-type: none"> <li>• he/she has met the obligations arising from the return decision, or</li> <li>• his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or</li> <li>• he/she has been granted assistance for voluntary return.</li> </ul> <p>Furthermore, the ban referred to in Article 318 (1) shall not be withdrawn if:</p> <ul style="list-style-type: none"> <li>• the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or</li> <li>• the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.</li> </ul>



**Unaccompanied Minors**

Yes

The competent authority which has issued the return decision can, at the request of the foreigner and on the basis of a decision, withdraw the refusal referred to in Article 318 (1) of the Act of 12 December 2013 on Foreigners (entry ban), provided that the foreigner proves the following:

- he/she has met the obligations arising from the return decision, or
- his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or
- he/she has been granted assistance for voluntary return.

Furthermore, the ban referred to in Article 318 (1) shall not be withdrawn if:

- the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or
- the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.



**Disabled people**

Yes

The competent authority which has issued the return decision can, at the request of the foreigner and on the basis of a decision, withdraw the refusal referred to in Article 318 (1) of the Act of 12 December 2013 on Foreigners (entry ban), provided that the foreigner proves the following:

- he/she has met the obligations arising from the return decision, or
- his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or
- he/she has been granted assistance for voluntary return.

Furthermore, the ban referred to in Article 318 (1) shall not be withdrawn if:

- the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or
- the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.



**Elderly people**

Yes

The competent authority which has issued the return decision can, at the request of the foreigner and on the basis of a decision, withdraw the refusal referred to in Article 318 (1) of the Act of 12 December 2013 on Foreigners (entry ban), provided that the foreigner proves the following:

- he/she has met the obligations arising from the return decision, or
- his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or
- he/she has been granted assistance for voluntary return.

Furthermore, the ban referred to in Article 318 (1) shall not be withdrawn if:

- the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or
- the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.



**Pregnant women**

Yes

The competent authority which has issued the return decision can, at the request of the foreigner and on the basis of a decision, withdraw the refusal referred to in Article 318 (1) of the Act of 12 December 2013 on Foreigners (entry ban), provided that the foreigner proves the following:

- he/she has met the obligations arising from the return decision, or
- his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or
- he/she has been granted assistance for voluntary return.

Furthermore, the ban referred to in Article 318 (1) shall not be withdrawn if:

- the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or
- the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.



**Single parents with minor children**

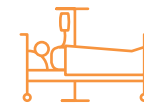
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The competent authority which has issued the return decision can, at the request of the foreigner and on the basis of a decision, withdraw the refusal referred to in Article 318 (1) of the Act of 12 December 2013 on Foreigners (entry ban), provided that the foreigner proves the following:

- he/she has met the obligations arising from the return decision, or
- his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or
- he/she has been granted assistance for voluntary return.

Furthermore, the ban referred to in Article 318 (1) shall not be withdrawn if:

- the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or
- the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.



**Persons with serious illness**

Yes

The competent authority which has issued the return decision can, at the request of the foreigner and on the basis of a decision, withdraw the refusal referred to in Article 318 (1) of the Act of 12 December 2013 on Foreigners (entry ban), provided that the foreigner proves the following:

- he/she has met the obligations arising from the return decision, or
- his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or
- he/she has been granted assistance for voluntary return.

Furthermore, the ban referred to in Article 318 (1) shall not be withdrawn if:

- the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or
- the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.



Persons with mental disorders

Yes

The competent authority which has issued the return decision can, at the request of the foreigner and on the basis of a decision, withdraw the refusal referred to in Article 318 (1) of the Act of 12 December 2013 on Foreigners (entry ban), provided that the foreigner proves the following:

- he/she has met the obligations arising from the return decision, or
- his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or
- he/she has been granted assistance for voluntary return.

Furthermore, the ban referred to in Article 318 (1) shall not be withdrawn if:

- the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or
- the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.



Persons who have been subjected to torture, rape, or other serious forms of psychological, physical or sexual violence (e.g. victims of female genital mutilation)

Yes

December 2013 on Foreigners (entry ban), provided that the foreigner proves the following:

- he/she has met the obligations arising from the return decision, or
- his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or
- he/she has been granted assistance for voluntary return.

Furthermore, the ban referred to in Article 318 (1) shall not be withdrawn if:

- the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or
- the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.

Other humanitarian reasons

n/a

n/a



Other individual cases or certain categories of cases for other reasons

The ability to withdraw the entry ban exists in case of any foreigner provided that the conditions listed in the column on the right are fulfilled

The competent authority which has issued the return decision can, at the request of the foreigner and on the basis of a decision, withdraw the refusal referred to in Article 318 (1) of the Act of 12 December 2013 on Foreigners (entry ban), provided that the foreigner proves the following:

- he/she has met the obligations arising from the return decision, or
- his/her subsequent entry onto the territory of the Republic of Poland or other states in the Schengen area is due to specific circumstances, in particular humanitarian, or
- he/she has been granted assistance for voluntary return.

Furthermore, the ban referred to in Article 318 (1) shall not be withdrawn if:

- the entry or stay of a foreigner on the territory of the Republic of Poland may constitute a defence or security threat, or a threat to public security and order, or adversely affect the interests of the Republic of Poland, or
- the foreigner has failed to cover the costs related to issuing and implementing the return decision, which he/she should have paid.

9. Is the institution responsible for the imposition of the entry ban the same as the authority that is competent to decide on withdrawal/suspension?

Yes. In both of these cases, the competent authority is the Border Guard.

1.3 Cooperation between member states

10. Does Poland enter an alert into the SIS when an entry ban has been imposed on a third-country national? (e.g. see Article 24 (3) of Regulation No 1987/2006 – SIS)? Please specify whether:

- a) Alerts are entered into the SIS as standard practice,
- b) Alerts are entered into the SIS on a regular basis,
- c) Alerts are entered into the SIS on a case-by-case basis.

Yes. In Poland, entry into the Schengen Information System [SIS] is a standard practice conducted on a regular basis. The Office for Foreigners fulfills the obligation stemming from Article 24 (3) of Regulation No 1987/2006 of the European Parliament and of the Council of 20 December 2006 on the establishment, operation and use of the second generation Schengen Information System [SIS II], and in accordance with Article 443<sup>6</sup> of the Act of 12 December 2013 on Foreigners [the Act came into force on 1 May 2014], the Head of the Office for Foreigners transmits the alien's data gathered in the Register for the period during which it is stored in the register to the Schengen Information System for the purpose of refusing entry, if the basis for storing data in the Register is one of the following:

- a final and binding return decision including the re-entry ban into the territory of the Republic of Poland and into other Schengen states, or
- a final and legally binding decision issued in a country other than one of the countries of the Schengen area for an offense constituting a crime within the meaning of Polish law or the law of another state from the Schengen area for an

- offense punished with imprisonment for a period exceeding one year, or
- the foreigner's stay or entry into the territory of Poland is undesirable and constitutes a defence or security threat, or a threat to public security and order, or adversely affects the interests of the Republic of Poland, or
- the transfer of an alien to a third country on the basis of an international agreement on the transfer and reception of persons, after stopping the alien due to him/her crossing the border in violation of legal provisions, or
- Article 77 Act of 14 July 2006 on the entry into, residence in and exit from the Republic of Poland of nationals of the European Union and their family members<sup>7</sup>.

Data contained in the Schengen Information System is removed should the entry into the register be suspended<sup>8</sup> until such time as the circumstances justifying the suspension cease to exist. After the suspension period regarding the validity of the entry into the register, data regarding a foreigner is re-entered into the Schengen Information System for the purposes of refusing entry.

11a. Does Poland share information on the use of entry bans with other Member States?

Poland exchanges information concerning the application of the entry ban to individual cases. Pursuant to the provisions of Article 22 (1) point 3 of the Act on Foreigners of 12 December 2013 [Dz.U. of 2013, item 1650], one of the main tasks of the Head of the Office for Foreigners consists in

6. Before, pursuant to Article 134a of the Act on Foreigners of 13 June 2003, the foreigner's data [with certain exceptions] were transferred to the Schengen Information System for the purpose of refusal of entry during the period when it is stored in the Register.

7. The article states that the data of the EU citizen or family member of a non-EU citizen who left the territory of the Republic of Poland as a result of the execution of the return decision taken due to the

threat to national defence or national security, or the protection of public safety and order, shall be kept in the Register for a period of 5 years. After this period, the data of the EU citizen or a family member of who is not a EU citizen shall be deleted from the Register.

8. According to: Article 437 of the Act on Foreigners of 12 December 2013 [Dz.U. of 2013, item 1650].

providing to competent authorities of other countries of the Schengen area, through the intermediary of the Commander-in-Chief of the Police, information on the legal and factual basis for entry into the Schengen Information System for the purposes set forth in Article 25 of the Convention of 19 June 1990 implementing the Schengen Agreement of 14 June 1985 on the gradual abolition of checks at common borders.

Exchange of information between Member States regarding the application of the entry ban in relation to foreigners can take place in the following cases:

#### **Refusal to issue a national visa**

Pursuant to the provisions of Article 65 (1) point 2, a foreigner shall be refused a national visa if his/her personal data is contained in the Schengen Information System for the purposes of refusing entry.

If the foreigner's data is contained in the Schengen Information System for the purposes of refusing entry, a national visa may only be issued if there are serious reasons justifying its issuance, in particular humanitarian reasons or international obligations, taking into account the interests of the state which issued the alert to the Schengen Information System.

If the data of the foreigner applying for a national visa are contained in the Schengen Information System for the purposes of refusing entry, and there are serious reasons for issuing the visa, the consul processing the national visa application, through the intermediary of the Commander-in-Chief of Police, consults the Schengen state responsible for the alert pursuant to the provisions of Article 25 (1) of the Convention Implementing the Schengen Agreement.

If the data of the foreigner applying for a national visa renewal is entered into the Schengen Information System for the purpose of refusing entry, and if there are serious reasons justifying the renewal of the visa, the Voivode, through the intermediary of the Commander-in-Chief of the Police, consults the Schengen state responsible for the alert pursuant to the provisions of Article 25 (1) of the Convention Implementing the Schengen Agreement.

In case of visa issue/ renewal, the consul/ voivode announces - through the intermediary of the Commander-in-Chief of the Police - the name of the authority of the Schengen area competent to issue

national visas.

When a Schengen State consults - on the basis of Article 25 (1) of the Convention Implementing the Schengen Agreement - the competent authority with the view to annulling or revoking a national visa (consul, commanding officer of the Polish Border Guard unit or the minister responsible for foreign policy in relation to diplomatic and service visas) determines whether there are grounds for the annulment or revocation of the national visa and, when these are absent, informs the competent authority of that State through the intermediary of the Commander-in-Chief of the Police.

#### **Refusal to issue a residence permit**

According to the new Act on Foreigners of 12 December 2013, an alien shall be refused a residence permit in Poland if his/her data is entered into the Schengen Information System for the purposes of refusing entry. This clause refers to the temporary residence permit [Article 100 (1) point 3], the temporary residence and work permit [Article 117], the temporary residence permit for the purposes of highly qualified employment [Article 132], the temporary residence permit for a third-country national seconded by a foreign employer to the territory of the Republic of Poland [Article 141], the temporary residence permit for the purposes of conducting business activity [Article 143], the temporary residence permit for the purpose of obtaining higher education [Article 147], the temporary residence permit for the purposes of conducting research [Article 154], the temporary residence permit for family members of nationals of the Republic of Poland and family members of foreigners [Article 164], the temporary residence permit issued due to circumstances requiring a short-term stay [Article 184] and the permanent residence permit [Article 197 (1) point 3].

The foregoing shall not pertain to aliens applying for a temporary residence permit due to other circumstances and to applications for a residence permit on the territory of the Republic of Poland submitted by foreign nationals who are victims of trafficking in human beings.

If the foreigner's data is entered into the Schengen Information System for the purposes of refusing entry, the Voivode may issue a residence permit only if this is justified. It may be due to

humanitarian reasons or international obligations, taking into account the interest of the State which issued the alert to the Schengen Information System.

In the case referred to in Article 25 (1) of the Convention implementing the Schengen Agreement, the Voivode issuing a positive decision on the granting of a residence permit informs, through the intermediary of the Commander-in-Chief of the Police, the competent authority of the Schengen area about issuing the permit.

As indicated in Article 25 (2) of the Convention Implementing the Schengen Agreement, should another Schengen State consult the issuing party, the Voivode determines whether there are sufficient reasons for withdrawing the residence permit and informs through the intermediary of the Commander-in-Chief of the Police, the competent authority of that State.

In addition, the Office for Foreigners that holds the Register of foreigners whose stay on the territory of the Republic of Poland is undesirable, exchanges through the intermediary of the International Police Cooperation Office of the Police Headquarters information concerning the reasons for the entry of personal data of a third-country national into the Schengen Information System [SIS], the validity of an alert in the SIS, the confirmation the identity of personal data contained in the Schengen information System with other Member States in particular cases, i.e. under Article 25 of the Convention Implementing the Schengen Agreement. The abovementioned is applicable when:

- issuing a residence permit is considered. Where a Member State considers issuing a residence permit to an alien for whom an alert has been issued for the purposes of refusing entry, it shall first consult the Member State issuing the alert and shall take account of its interests; the residence permit shall be issued for substantive reasons only, notably on humanitarian grounds or by reason of international commitments. Where a residence permit is issued, the Member State issuing the alert shall withdraw the alert but may put the alien concerned on its national list of alerts. Prior to issuing an alert for the purposes of refusing entry within the meaning of Article 96, the Member States shall check their national records of long-stay visas or residence permits issued,
- an alert for the purpose of refusing entry has been

issued for a third-country national who already holds a residence permit issued by another State. Should a residence permit not be withdrawn, the Member State issuing the alert shall withdraw it, even though it can enter the alien concerned into its national list of alerts for the refusal of entry,

- issuing long-term visas is being considered.

#### **11b. What type of information is shared with other Member States?**

##### **a) Identity of the individuals who have been imposed an entry bans**

Yes.

##### **b) Reasons for imposing the entry bans**

Yes.

##### **c) Decision to withdraw an entry ban and reasons for this**

Yes.

##### **d) Decision to suspend an entry ban and reasons for this**

No.

In Poland, the Head of the Office for Foreigners, as the body holding the register of foreigners whose stay on the territory of the Republic of Poland is undesirable, exchanges information with other Member States pertaining to:

- the identity of persons who are subject to the entry ban,
- reasons for the imposition of the entry ban,
- the decision to withdraw the entry ban and reasons for the withdrawal.

In addition, information is provided on the validity of the alert in SIS and, occasionally, also data on the identity of the alien's parents.

#### **11c. How is information shared with other Member States?**

Pursuant to the provisions of Article 25 (1) and (2) of the Convention Implementing the Schengen Agreement of 14 June 1985, the Office for Foreigners in Poland, holding the Register of foreigners whose stay on the territory of the Republic of Poland is undesirable through the intermediary of the International Police Cooperation Office of the Police Headquarters, i.e. the Polish SIRENE Bureau, exchanges information with other Member States [and vice versa]. The Polish SIRENE Bureau sends

responses obtained from the Office for Foreigners to the SIRENE Bureau in other EU Member State. Information is exchanged between the Office for Foreigners and the SIRENE Bureau by way of a written communication, by telephone and e-mail.

**12a. Article 11 (4) stipulates that “where a Member State is considering issuing a residence permit or other authorisation offering a right to stay to a third-country national who is the subject of an entry ban issued by another Member State, it shall first consult the Member State having issued the entry ban and shall take account of its interests in accordance with Article 25 of the Convention implementing the Schengen Agreement”. Please describe the processes how these consultations take place; indicate which authorities are involved as well as the method of consultation.**

In Poland, the following authorities are involved in the exchange of information: consuls in connection with the issuance of national visas, voivodes in connection with the granting of residence permits and visa renewals, national competent authorities for the cancellation of national visas, and the Head of the Office for Foreigners [Foreigners’ Registration Division, Department for Refugee and Asylum Proceedings]. Pursuant to the provisions of Article 25 of the Convention Implementing the Schengen Agreement, queries regarding the reasons for entry and requests for removal of an alien’s data from the SIS are sent in the form of a letter to the Foreigners’ Registration Division of the Office for Foreigners by the SIRENE Bureau. Should consultations be instituted by the Office for Foreigners under Article 25 of the Convention implementing the Schengen Agreement, such consultation is conducted in three stages:

- initiation of consultation and provision of information on the reasons for entering the alert into the SIS,
- announcement of deleting the alert only if the foreigner is granted a residence permit by the Member State requesting the consultation,
- removal of the alert from the SIS.

All information from the Office for Foreigners is sent in writing to the International Police Cooperation Office of the Police Headquarters, i.e. the Polish SIRENE Bureau.

**12b. Has Poland ever issued a residence permit or**

**any other authorisation offering a right to stay to a third-country national who is the subject of an entry ban imposed by another Member State?**

Yes. It is, however, impossible to provide statistical data in this regard, as this type of data is not collected in the information system.

**12c. In case Poland has issued a residence permit or any other authorisation offering a right to stay to a third-country national who is the subject of an entry ban imposed by another Member State, please specify the circumstances based on which such decisions were taken.**

According to the indications outlined in the Act on Foreigners and relevant implementing regulations to the Act, conditions for the issuing of visas by competent authorities [consular offices] and residence permits in Poland [voivodship offices], no cases have been recorded of issuing permits legalizing entry and residence of foreigners to whom other EU Member States had issued an entry ban. If a foreigner is entered into the Schengen Information System [SIS], the consul of the Republic of Poland or a voivode issue a negative decision

The only case, in which a national visa could be issued in such a situation, would be – pursuant to the Act on Foreigners – granting a visa for humanitarian reasons, due to the interests of the state or international commitments. In 2011 - 2014 [the first quarter], no cases of issuing a national visa by a consular office were reported granted for humanitarian reasons [D 26 visa], due to the interests of the state or other international commitments [Article 26 of the Act on Foreigners of 13 June 2003<sup>9</sup>, which has been in force till 1 May 2014].

Under the Convention Implementing the Schengen Agreement, Member States may issue uniform Schengen visas with limited territorial validity [the so-called LTV visas], which entitle an alien to reside only in the country/ countries for which the visa has been issued. Information obtained from Polish consular offices indicates that among a total number of about 12,700 LTV visas issued in 2013 by Polish consuls, only 0.25 % [i.e. about 30 visas] were granted to foreigners, in relation to whom other EU Member States had issued an entry ban. These were individual cases, usually with respect to the citizens

of Ukraine [ca. 50 %]. Due to their limited number, it is difficult to indicate a uniform tendency in terms of reasons justifying positive decisions made by Polish consuls. In the majority of cases, these decisions have been issued due to economic, trade and business reasons, and supported by Polish institutions. It should be noted that in each case, the foreigner was informed that the LTV visa entitles him/her to stay only on the

territory of the Republic of Poland without being able to travel to another country of the Schengen area. After the end of his/her stay in Poland, however, the alien is obliged to return directly to his/her country of origin, without the possibility of transit through the territory of another EU Member State.

## 1.4 Effectiveness of entry bans

**13. Has Poland conducted any evaluations of the effectiveness of entry bans?**

No.

**14. The following indicators have been developed in order to measure the effectiveness of entry bans**

**as a means for enhancing the ability of Poland to carry out sustainable returns, or provide proxy measures of their effectiveness. If Poland collects any statistics that would permit the population of these indicators, please indicate this is the case and provide the statistics for the last 5 years.**

**TABLE 1.5**

National statistics on entry bans

Indicators <sup>10</sup>	Y/N	2009	2010	2011	2012	2013
Number of entry bans imposed	Yes	10 495 <sup>11</sup>	11 434	11 845	9 138	9 697
		8 518 <sup>12</sup>	8 272	7 435	6 857	7 334
Number of decisions to withdraw an entry ban	Yes	408 <sup>13</sup>	387	409	396	693
					123 <sup>14</sup>	587
Number of decisions to suspend an entry ban	No					

**10.** General data on the number of entry bans imposed are collected in the Register of foreigners whose stay on the territory of the Republic of Poland is undesirable, led by the Head of the Office for Foreigners. Decisions on banning the entry in the decisions of expulsion from the territory of the Republic of Poland or in the decisions on obligation to leave the territory of Poland were introduced into the Act of 13 June 2003 on Foreigners with effect from 12 June 2012, altogether with the entry into force of the Act of 27 April 2012 amending the Act on Foreigners and the Law on Employment Promotion [Journal of Law 2012 item. 589] and is obligatory [while the decision of the authority depended, and now depends on, with the exceptions, if an entry ban shall concern only the Republic of Poland or Poland and the other countries of the Schengen area]. Prior to this date the entry-ban was not imposed, but under the law [by means of the Act of 2003 on Foreigners], the foreigners’ data against whom the return decision was issued were collected in the Register of foreigners whose stay on the territory of the Republic of Poland is undesirable on [counting

from the date of execution of the decision]. Before that date, only some decisions clearly informed that the effect of the decision is to enter the foreigner’s data to the Register of foreigners whose stay on the territory of the Republic of Poland is undesirable.

**11.** The total number of entries in the Register of foreigners whose stay on the territory of the Republic of Poland is undesirable, including in connection with the return decision, ie the decision on expulsion or the decision on obligation to leave the territory of Poland.

**12.** Number of decisions on the expulsion and the decision on obligation to leave the territory of the Republic of Poland, which was always accompanied by effect of the prohibition of entry into the territory of the Republic of Poland or in the territory of Poland and other countries of the Schengen area.

**13.** The total number of deletions from the list of foreigners whose stay on the territory of the Republic of Poland is undesirable, including the entry list was associated with a return decision.

**14.** Number of the withdrawal decision on entry ban.

<sup>9</sup> Dz. U. 2011 No 264, item 1573 as amended.

Number of persons who are the subject of an entry ban who have been re-apprehended inside the territory (not at the border)	No
Proportion of persons issued an entry ban who have returned voluntarily – out of the total number of persons that were issued an entry ban	No
Proportion of persons who were not issued an entry ban who have returned voluntarily – out of the total number of persons that were imposed a return decision	No

15. Has Poland encountered any of the following challenges in the implementation of entry bans and briefly explain how they affect the ability of entry bans to contribute to effective returns?

**TABLE 1.6**  
Practical challenges for the implementation of entry bans

Challenges associated with entry bans	Y/N	Reasons
It is difficult to ensure compliance with entry bans on the part of the third-country national concerned	No	All Member States can verify through the SIS if the third-country national complies with the entry ban.
It is difficult to monitor compliance with entry bans	No	All Member States can verify through the SIS if the third-country national complies with the entry ban.
It is difficult to secure the cooperation of other MS in the implementation of entry bans <sup>15</sup>	No	As a rule, Member States shall implement measures resulting from the entry of the alien into the SIS for the purposes of refusing entry.
It is difficult to secure the cooperation of the country of origin in the implementation of entry bans	No	Not applicable.

16. Please describe any examples of good practice in Poland's implementation of entry bans, identifying as far as possible the reasons why the practice in question is considered successful.

Establishing and maintaining an updated Register of foreigners whose stay on the territory of the

Republic of Poland is undesirable, in which personal data is collected and the reasons for entering an alien into the register are outlined, should be regarded as an example of good practice. This information, depending on the circumstances of the case, can help in making administrative decisions.

Pursuant to Article 435 (1) of the new Act on Foreigners of 12 December 2013, the register shall include information regarding a foreigner, if at least one of the following conditions is met:

- a decision on imposing the return obligation [return decision] has been issued in relation to the foreigner, together with an entry ban into the territory of the Republic of Poland, or an entry ban on the territory of the Republic of Poland and other countries of the Schengen area;
- the alien has been convicted in the Republic of Poland for an intentional offense or a tax offense with a fine or imprisonment, or in a country outside the Schengen area - for an offense constituting a crime under Polish law, or in Poland or in another country from the Schengen area - for an offense

punished with imprisonment of more than one year;

- the entry or residence of the foreigner on the territory of the Republic of Poland is undesirable because of the obligations arising from binding treaties and international agreements concluded by the Republic of Poland;
- it is required for reasons of national defence or national security, or the protection of public safety and order, or the interests of the Republic of Poland;
- following an initial foreigner's detention in connection with the crossing of the border in violation of the law, the foreigner is transferred to a third country on the basis of an international agreement on transferring and accepting persons.

15. This could for example relate to problems in the use of the Schengen Information System, and/or the lack of a common system.

# 2

## Readmission agreements

2.1 Institutional set-up  
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## 2.0 Readmission agreements<sup>16</sup>

### 2.1 Institutional set-up

17. Which authority is responsible for making applications for readmission to third countries in

individual cases of forced and or voluntary return?  
Border Guard.

### 2.2 EU readmission agreements

18. Please provide any available statistics on the number of readmission applications that your Member State has submitted on the basis of EU readmission agreements.

**TABLE 2.1**

National Statistics on the total number of readmission applications under EU Readmission Agreements

Total number of readmission applications				
Year	2010	2011	2012	2013
Total	541	679	580	517

<sup>16</sup>. This Section only concerns readmission agreements with third countries and that any other readmission agreements with EEA countries are outside the scope.



**TABLE 2.2**

National Statistics on the number of readmission applications made under EU Readmission Agreement to Ukraine

	Total number of readmission applications			
	2010	2011	2012	2013
<b>UKRAINE</b>				
<b>Total numbers</b>	497	440	358	312
<b>Own nationals</b>	389	352	306	244
<b>Third-country nationals (including stateless persons)</b>	108	88	52	52

**TABLE 2.3**

National Statistics on the number of readmission applications made under EU Readmission Agreement to Russia

	Total number of readmission applications			
	2010	2011	2012	2013
<b>RUSSIA</b>				
<b>Total</b>	44	121	70	86

**TABLE 2.4**

National Statistics on the number of returns under EU Readmission Agreement to Georgia

	Number of readmission applications			
	2010	2011	2012	2013
<b>GEORGIA</b>				
<b>Total</b>	0	37	34	61

**19. Has Poland experienced any practical obstacles when implementing EU Readmission Agreements?**

**TABLE 2.5**

Practical obstacles for the implementation of EU Readmission Agreements

Practical obstacles associated with EU readmission agreements	Yes/No	If yes, please specify whether only in relation to a specific third country, or more of general nature. Also illustrate the obstacle with an example in this column
Countries of origin do not cooperate in general	No	
Countries do not respect the deadlines	Yes	Pakistan does not comply with the deadline for replying to the readmission application specified in the agreement. There was a necessity to send readmission request through the diplomatic representation which situation influences on the effect and elongation of the readmission procedure.
Countries do not cooperate in relation to readmission applications of third-country nationals (as opposed to own nationals)	No	
Countries do not cooperate in relation to readmission applications of stateless persons (as opposed to own nationals)	No	
Countries do not issue travel document to enable readmission/return	No	There were cases in which a Pakistani party had already agreed on readmission, but finally refused to issue travel documents.
Gaps in Poland's administrative capacity to implement readmission agreement	No	
Other obstacles (please add columns as necessary)	Yes	There was lack of efficiency in terms of attempts to launch contacts in order to start the negotiation process of the Executive Protocol which sets out the technical conditions for the implementation of the agreement itself [Pakistan].

**20. Has Poland conducted any evaluations of the effectiveness of EU and/or its bilateral readmission agreements?**

Yes:

- Agreement between the Government of the Republic of Poland and the Government of the Socialist Republic of Vietnam on Transfer and Readmission of Nationals of Both Countries foresees for both parties the preparation of periodical evaluations of the implementation of the Agreement. In order to assess application of the heretofore collaboration during the period of validity of the abovementioned agreement 5 meetings

of this character were organized [in 2007, 2008, 2009, 2010, 2012].

- Ukraine; working meetings at the central level are organised by the Polish Border Guard Headquarters with the purpose to exchange practical experiences and assessment of the implemented readmission agreement [in 2010, 2011, 2012] as well as regular meetings of the Border Plenipotentiaries in Poland and Ukraine which are organised by the Commander of Bieszczadzki and Nadbużański Division of the Border Guard.
- Russian Federation; working meetings at the central level are organised by the Polish Border Guard

Headquarters with the purpose to exchange practical experiences and assessment of the implemented readmission agreement [in 2012 and 2013]

- Georgia; working meetings at the central level are organised by the Polish Border Guard Headquarters with the purpose to exchange practical experiences and assessment of the implemented readmission agreement [in 2010, 2013]
- Armenia; in April 2014 a visit of the State Security Service, the Migration Service and the Police` representatives took place. The aim of the meeting was to discuss issues related to the cooperation in the field of implementation of the agreement`s provisions, exchange of experiences in the implementation of forced return of foreigners and determine the method of conducting correspondence. Moreover, a draft Implementing Protocol to the agreement was presented.

- Leading missions organised by Aliens Department at the Polish Border Guard Headquarters to third countries shall be an instrument to establish relations with the countries in questions with which the collaboration is difficult and ineffective. In the scope of the abovementioned missions Aliens Department at the Polish Border Guard Headquarters established direct cooperation with Sri Lanka. Within the range of the leading missions negotiations regarding the Implementation Protocol to the readmission agreement began, as well as a meeting with the institution responsible for the practical execution of the agreement was organised. The aim of the already mentioned meeting was also to summary the existing collaboration and appoint experts for working and direct contacts for implementation of the readmission agreement.

**TABLE 2.6**

Findings of the evaluations of EU Readmission Agreements carried out by Poland

Aspects of effectiveness	Covered in national evaluations (Y/N)	Main findings
Recognition rates of readmission applications	Yes	In 2013 there was 84.7% recognition of requests for readmission.

**21. The following indicators have been developed in order to provide (proxy) measures of the effectiveness of EU and bilateral readmission agreements.**

**TABLE 2.7**

Indicators measuring the effectiveness of EU Readmission Agreements

Indicators	2009	2010	2011	2012	2013
Number of readmission applications sent	46 (data without the readmission agreement with Ukraine)	541	679	580	517

Number of readmission applications that received a positive reply	24 (data without the readmission agreement with Ukraine)	524	438	481	438
Number of requests for travel documents in the context of a readmission application	No data	No data	No data	No data	No data
Number of travel documents issued by third country after the positive reply	No data	No data	No data	No data	No data
Number of persons who were effectively returned	No data	415 (data only for the readmission agreement with Ukraine)	487	426	487

**22. Please provide an assessment of the added value of the EU Readmission Agreements in facilitating the effective returns in comparison with the period before the EU Readmission Agreements were concluded.**

EU readmission agreements concluded with third countries systematize the principles and terms of the identification and transfer of third-country nationals to their country of origin, especially regarding those third countries with which Poland did not carry out close cooperation in the past, or was experiencing difficulties. Furthermore, due to the abovementioned agreements, direct contact with the authorities responsible for the implementation of these agreements is established.

In the period prior to the implementation of the readmission agreement i.a. with Georgia, Pakistan, Sri Lanka the effectiveness of the confirmation of foreigner`s identity and obtaining the substitute travel

documents was at a very low level. Cooperation within the abovementioned range took place through diplomatic representations which were not obliged by any time limits to reply to inquiries sent by the Border Guard.

The agreements signed at EU-level create new perspectives for Poland with regard to return of illegal migrants by offering the opportunities to establish direct relations with other states and to implement new arrangements in the field of return management. One of the facilitations that may be introduced (also in the future) on the basis of the EU readmission agreements is the possibility to use the European Travel Document for the Expelled Third-Country Nationals in the event of those readmitted foreigners who are not in a possession of any travel document. Poland has already taken advantage of this opportunity when returning persons to Sri Lanka under readmission procedure.

**2.3 Separate bilateral readmission agreements**

**23. Does Poland have any separate bilateral readmission agreements in place with third countries?**

Yes. Poland has concluded one bilateral readmission agreement with a third country, namely Vietnam. The

agreement was concluded on 22 April 2004 and entered into force on 14 May 2005. An Implementing Protocol has been drawn up and signed in relation to the agreement. On 25 May 2007 additional draft protocol of the meeting [Memorandum of

Understanding] concerning the terms and conditions of financing experts interviews in order to confirm the identity of foreigners in the readmission procedure was signed.

**24. Please provide any available statistics on the number of readmission applications that your Member State has submitted on the basis of separate bilateral readmission agreements.**

**TABLE 2.8**  
National Statistics on the number of readmission applications made under separate bilateral readmission agreements to Vietnam

Vietnam	Number of readmission applications			
	2010	2011	2012	2013
<b>Total numbers</b>	187	123	146	101
<b>Own nationals</b>	187	123	146	101

**25. Please indicate the most common problems encountered in the implementation of separate bilateral readmission agreements.**

**TABLE 2.9**  
Practical obstacles experienced under separate bilateral readmission agreements

Practical obstacles associated with separate bilateral readmission agreements	Yes/No	If yes, please specify whether only in relation to a specific third country, or more of general nature. Also illustrate the obstacle with an example in this column
Countries of origin do not cooperate in general	No	
Countries do not respect the deadlines	No	
Countries do not cooperate in relation to readmission applications of third-country nationals (as opposed to own nationals)	No	Not applicable [agreement does not cover this category of foreigners].

Countries do not cooperate in relation to readmission applications of stateless persons (as opposed to own nationals)	No	
Countries do not issue travel document to enable readmission/return	No	
Gaps in Poland's administrative capacity to implement readmission agreement	No	
Other obstacles	Yes	In accordance with the readmission agreement signed between Poland and Vietnam, Poland is obliged to inform on the intended transfer to the country of origin of a citizen of Vietnam holding a Vietnamese passport 21 days prior to the planned deportation. Therefore, it is not feasible to organize the expulsion of the aforementioned categories of persons to their country of origin within 48 hours.

**26. Do any of the separate bilateral readmission agreements signed by Poland include an article encouraging both Parties to promote the use of voluntary return?**

No. An alien in the readmission procedure, including when is detained in the guarded centre of the Border Guard or in an arrest for the purpose of expulsion, he/she cannot take advantage of the voluntary return programmes. As the basis for adoption of the already

mentioned approach is the principle that the subject of the readmission are those persons toward whom a decision on obligation to return, without appointing the date of voluntary return, was issued.

**27. Does Poland prefer to use separate bilateral readmission agreements instead of EU Readmission agreements with particular third countries?**

No.

**28. Has Poland conducted any evaluations of the effectiveness of separate bi-lateral readmission agreements?**

Yes.

**TABLE 2.10**  
Evaluations on separate bilateral readmission agreements

Aspects of effectiveness	Covered in national evaluations (Y/N)	Main findings
Recognition rates of readmission applications	Yes	In case of Vietnam, in 2013 there was over 93% recognition of requests for readmission. The cooperation is very much positive.

29. The following indicators have been developed in order to provide (proxy) measures of the effectiveness of separate bilateral readmission agreements.

**TABLE 2.11**

Indicators measuring the effectiveness of separate bilateral readmission agreement with Vietnam

Indicators	2009	2010	2011	2012	2013
Number of readmission applications sent	144	187	123	146	101
Number of readmission applications that received a positive reply	138	144	92	75	94
Number of requests for travel documents in the context of a readmission application	No data	No data	No data	No data	No data
Number of travel documents issued by third country after the positive reply	No data	No data	No data	No data	No data
Number of persons who were effectively returned	No data	127	87	33	107

30. Please provide an assessment of the added value of the separate bilateral readmission agreements in facilitating effective returns in comparison with the period before the separate bilateral readmission agreements were concluded.

Owing to the agreement concluded between the Government of the Republic of Poland and the Government of the Socialist Republic of Vietnam regarding the transfer and reception of citizens of both states, principles and terms of identification and transfer of Vietnamese citizens to their country of origin have been systemized. In addition, direct contact with authorities responsible for the implementation of the agreement has been established and interviews with persons declaring Vietnamese citizenship and staying illegally on the territory of the Republic of Poland are now possible and are

carried out by experts from the Ministry of Public Security in Hanoi (public body in charge of the direct implementation of the readmission agreement). Consequently, the effectiveness of the identification and organization of transfers to the country of origin has increased.

Before the already mentioned agreement was signed the collaboration with the Vietnamese party in terms of confirming the identity of foreigners and obtaining travel documents took place through the Embassy of Vietnam in Warsaw. However the effectiveness of confirming the identity of the aforementioned by the diplomatic representation was very low. Currently the recognition rate of the readmission requests by the Vietnamese party is at a high level, e.g. in 2013 at the level of 93%.

# 3

## Entry bans and readmission agreements: understanding the synergies with reintegration assistance

### 3.0 Entry bans and readmission agreements: understanding the synergies with reintegration assistance

**31. Do the authorities in charge of imposing an entry ban subsequently consult with and/or inform the authorities in the concerned third country to which the individual is to be returned?**

No.

**32. Is it possible in Poland for returnees who have been the subject of an entry ban to apply for re-integration assistance?**

Yes. Persons to whom entry bans have been issued in relation to the decision obliging them to leave the territory of the Republic of Poland in accordance with the Agreement between the Minister of the Interior and Administration of the Republic of Poland and the International Organization for Migration regarding cooperation in the field of voluntary return of foreigners leaving the territory of the Republic of Poland, signed in Warsaw on 12 July 2005, can apply for assistance in voluntary return, which thanks to the support of programmes co-financed by European Union funds, can provide the foreigner, inter alia, with reintegration assistance in the country of return.

Reintegration assistance is provided to persons in relation to whom an entry ban has been issued, and who decide to return to their country of origin voluntarily under two projects co-financed from EU funds, namely "Assistance in Voluntary Return and Reintegration" and "Phase II: Assisted Voluntary Return and Reintegration". In the framework of this project, foreigners can apply for reintegration assistance granted upon their return. The same assistance cannot be granted to irregular migrants who have stayed on the territory of the Republic of Poland for a period shorter than three months.

**33. Are the competent authorities involved in making decisions about the use of entry bans and**

**granting of re-integration assistance the same?**

No. The Headquarters of the Border Guard remain the competent authority for decisions on entry ban into the territory of the Republic of Poland, and the issues related to the organization of reintegration assistance in the country of return are coordinated by the Office of the International Organization for Migration in Warsaw.

**34. Have any formal cooperation mechanisms been set up to facilitate coordination (e.g. Protocols, contracts, conventions, working arrangements, etc.)?**

Yes. In order to streamline the performance of the activities provided for in the Agreement concluded between the Minister of the Interior and Administration of Poland and the International Organization for Migration pertaining to cooperation in the field of voluntary return of foreigners leaving the territory of the Republic of Poland and drawn up in Warsaw on 12 July 2005, **the Joint Consultative Committee** has been created. The tasks of the Committee include: controlling the implementation of the agreement, the assessment of cooperation with Polish governmental and non-governmental organizations working with foreigners and issuing opinions on proposals regarding the voluntary return of foreigners.

The Commission consists of four representatives - two appointed by the Minister of the Interior and two appointed by the IOM. In accordance with Article 6 (4) of the agreement, "if necessary, the Commission may invite to participate in the meetings representatives of governmental and non-governmental organisations, whose scope of activities encompasses matters pertaining to foreigners". Meetings of the Commission shall be convened when necessary, but not less than every six months.

**35. Does Poland offer re-integration assistance to returnees who have been removed on the basis of a readmission agreement?**

No. Voluntary return projects carried out in Poland by the Office of the International Organization for Migration in Warsaw and co-financed from EU funds do not provide for the organization of reintegration assistance upon return for foreigners expelled under the readmission agreements.

However Poland participates in international projects with this regards. The aim of the project, entitled "Support Reintegration of Georgian Returning Migrants and the Implementation of EU-Georgia Readmission Agreement" was the launch of the Mobility Centre providing assistance in terms of employment and temporary accommodation (in the case of migrants who wish to return to parts of Georgia other than Tbilisi). The Centre also provided updated and reliable information on training opportunities. A number of activities have been conducted in the framework of the project, including an evaluation mission to examine i.a. Georgian legislation concerning the organization of the Georgian labour market and regulations pertaining to conducting business activities in Georgia. A Mobility Centre has also been also created: Georgian citizens returning to their country of origin can obtain information about vocational courses and training courses, as well as training session on how to establish and run an economic activity. A large number of entities, including the Ministry of Labour and Social Policy and the Ministry of the Interior of the Republic of Poland, were involved in activities undertaken within the framework of the project<sup>17</sup>.

At the same time, Poland participates in two migration projects conducted in cooperation with the countries of origin of foreigners, and in which special attention is put i.a. on the aspect of reintegration in the country of return. They include: "Enhanced participation of Georgian Emigrants at Home [ERGEM]" and "Supporting the Establishment of Effective Readmission Management in Armenia, Azerbaijan and Georgia". In the framework of the former, entitled "Enhanced participation of Georgian

Emigrants at Home [ERGEM]", representatives of the Georgian and the Polish government exchange their experience and best practices in the dissemination of knowledge about the country of origin of migrants and in the provisions of reliable information about living conditions in the country of origin, as well as maintaining ties between migrants and their country of origin. The project is coordinated by the International Centre for Migration Policy Development based in Vienna (ICMPD). The project is co-financed from EU funds<sup>18</sup>. In the framework of the latter project, "Supporting the Establishment of Effective Readmission Management in Armenia, Azerbaijan and Georgia", representatives of the Azerbaijani and the Polish government shall exchange knowledge and best practices in terms of the organization of migration services, their tasks and powers, as well as the functioning and practical aspects of the detention of foreigners, including Poland's best practices in the organization of return and expulsion of foreigners. The project is coordinated by the International Organization for Migration (IOM).

**36. Have any formal cooperation mechanisms been set up to facilitate coordination (e.g. Protocols, contracts, conventions, working arrangements, etc.)?**

No.

**37. Do the competent authorities consult with each other when making decisions?**

No.

**38. Do they have any formal cooperation mechanisms been set up to facilitate coordination? (e.g. Protocols, contracts, conventions, working arrangements, etc.).**

Yes. As regards to the return of foreigners to Georgia within the project „Support Reintegration of Georgian Returning Migrants and the Implementation of EU-Georgia Readmission Agreement” – the Polish Border Guard has created direct relations with the organisation responsible in Georgia for the implementation of the project in question and information on returning persons is transferred abreast of in order

to make available access to assistance offered within the project. Concurrently, in all detention centres

information regarding the possibilities to benefit from the project was disseminated.

<sup>17</sup>. More information can be found on the project website <http://www.informedmigration.ge/en/index.php?tig> and in the following documents: [http://www.informedmigration.ge/en/pdf/booklet\\_2.pdf](http://www.informedmigration.ge/en/pdf/booklet_2.pdf); <http://www.informedmigration.ge/en/pdf/booklet.pdf>.

<sup>18</sup>. More information can be found on the project website <http://www.icmpd.org/Enhancing-the-Role-of-Georgian-Emigrants-at-Home-ERGEM.2464.0.html>; and on the project's Facebook page <https://www.facebook.com/ERGEMProject>.

# 4

## Statistics

## 4.0 Statistics

**TABLE 4.1**

Readmission agreements concluded by Poland (as of 15 march 2014):  
Material of the Border Guard

Name of the Country	Place and date the Agreement was signed	Title of the Implementing Agreement	Date of entrance into force	Title of the Implementing Agreement	Place and date the Implementing Agreement was signed
<b>Republic of Austria</b>	Agreement between the Government of the Republic of Poland and the Federal Government of the Republic of Austria on Readmission of Persons residing without authorization	Vienna 10 June 2002	Agreement entered into force on 30.05.2005. Journal of Laws 2006, No 51, item 373	Implementing Protocol to Agreement between the Government of the Republic of Poland and the Federal Government of the Republic of Austria on Readmission of Persons residing without authorisation	Vienna 10 June 2002
<b>Republic of Bulgaria</b>	Agreement between the Government of the Republic of Poland and the Government of the Republic of Bulgaria on Transfer and Readmission of Persons residing without authorisation	Warsaw 24 August 1993	Agreement entered into force on 04.02.1994.	Agreement between the Government of the Republic of Poland and the Government of the Republic of Bulgaria on Transfer and Readmission of Persons residing without authorisation	Warsaw 24 August 1993
<b>Republic of Croatia</b>	Agreement between the Government of the Republic of Poland and the Government of the Republic of Croatia on Transfer and Readmission of Persons residing without authorisation	Warsaw 8 November 1994	Agreement entered into force on 27.05.1995	Protocol concluded between the Ministry of the Interior of the Republic of Poland and the Ministry of the Interior of the Republic of Croatia on Transfer and Readmission of Persons residing without authorisation	Warsaw 8 November 1994
<b>Czech Republic</b>	Agreement between the Government of the Republic of Poland and the Government of the Czech Republic on Transfer of Persons across the Common State Border	Prague 10 May 1993	Agreement entered into force on 30.10.1993	Agreement between the Ministry of the Interior of the Republic of Poland and the Ministry of the Interior of the Czech Republic on Transfer of Persons across the Common State Border	Warsaw 17 August 1993



<b>Hellenic Republic</b>	Agreement between the Government of the Republic of Poland and the Government of Hellenic Republic on Transfer and Readmission of Persons residing without authorisation	Warsaw 21 November 1994	Agreement entered into force on 05.05.1996	Agreement between the Minister of the Interior of the Republic of Poland and the Minister of the Interior of Hellenic Republic on implementing the Agreement on Transfer and Readmission of Persons residing without authorisation	Athens 25 January 1995
<b>Kingdom of Spain</b>	Agreement between the Republic of Poland and the Kingdom of Spain on Readmission of Persons residing without authorisation	Warsaw 21 May 2002	Agreement entered into force on 23.06.2004 Journal of Laws 2004, No 228, item 2300	Exchange of diplomatic notes informing about the authorities competent to implement the Agreement.	21 May 2002
<b>Ireland</b>	Agreement between the Government of the Republic of Poland and the Government of Ireland on Transfer and Readmission of Persons residing on the territory of their States Illegally	Warsaw 12 May 2001	Agreement entered into force on 22.06.2002. M.P. of 2002 No 31, item 497	The Agreement does not provide for concluding an implementing agreement.	12 May 2001
<b>Republic of Lithuania</b>	Agreement between the Government of the Republic of Poland and the Government of the Republic of Lithuania on Transfer and Readmission Persons	Warsaw 13 July 1998	Agreement entered into force on 08.01.2000	Agreement between the Minister of Interior and Administration of the Republic of Poland and the Minister of Interior of the Republic of Lithuania on Transfer and Readmission Persons	Warsaw 13 July 1998
<b>Republic of Latvia</b>	Agreement between the Government of the Republic of Poland and the Government of the Republic of Latvia on Transfer and Readmission of Persons residing without authorisation	Riga 29 March 2006	Umowa weszła w życie 27.12.2007 Dz. U z 2008, Nr 15, poz. 95	Implementing agreement between the Minister of Interior and Administration of the Republic of Poland and the Minister of Interior of the Republic of Lithuania on Transfer and Readmission of Persons residing without authorisation	Luxembourg 27 April 2006
<b>Republic of Macedonia</b>	Agreement between the Government of the Republic of Poland and the Government of the Republic of Macedonia on Transfer and Readmission of Persons residing without authorisation	Warsaw 15 November 1994	Agreement entered into force on 04.02.2007	Additionally: Readmission agreement UE – Macedonia of 18 September 2007 [agreement entered into force on 01.01.2008]	
<b>Republic of Moldova</b>	Agreement between the Government of the Republic of Poland and the Government of the Republic of Moldova on Transfer and Readmission of Persons residing without authorisation	Warsaw 15 November 1994	Agreement entered into force on 28.05.1995	Agreement between the Ministry of the Interior of the Republic of Poland and the Ministry of the Republic of Moldova on Transfer and Readmission of Persons residing without authorization. Additionally: Readmission agreement UE – Moldova of 10 October 2007 [agreement entered into force on 01.01.2008] Implementing protocol between the Republic of Poland and Moldova was signed on 11.10.2012 [is expecting to enter into force]	Warsaw 15 November 1994
<b>Republic of Romania</b>	Agreement between the Government of the Republic of Poland and the Government of the Republic of Romania on Mutual Readmission of Persons residing illegally in the territory of one of the Contracting States	Warsaw 24 July 1993	Agreement entered into force on 19.01.1994	Implementing protocol concluded between the Ministry of the Interior of the Republic of Poland and the Ministry of the Interior of Romania on Mutual Readmission of Persons residing illegally in the territory of one of the Contracting States	Warsaw 24 July 1993
<b>Slovak Republic</b>	Agreement between the Government of the Republic of Poland and the Government of Slovak Republic on Transfer and Readmission of Person at the Common State Border	Bratislava 8 July 1993	Agreement entered into force on 12.11.1993	Implementing protocol concluded between the Ministry of the Interior of the Republic of Poland and the Ministry of the Interior of Slovak Republic on implementing the Agreement between the Government of the Republic of Poland and the Government of Slovak Republic on Transfer and Readmission of Person at the Common State Border	Bratislava 30 August 1993
<b>Republic of Slovenia</b>	Agreement between the Government of the Republic of Poland and the Government of the Republic of Slovenia on Transfer and Readmission of Persons residing without authorisation	Ljubljana 28 August 1996	Agreement entered into force on 06.04.1998	Protocol between the Minister of Interior and Administration of the Republic of Poland and the Minister of Interior of the Republic of Slovenia on Transfer and Readmission of Persons residing without authorisation	Luxembourg 27 April 2006 Entered into force on 01.01.2007
<b>Swiss</b>	Agreement between the Government of the Republic of Poland and the Federal Council of Swiss Federation on Transfer and Readmission of Persons residing without authorisation	Warsaw 19 September 2005	Agreement entered into force on 31.03.2006 Journal of Laws 2006, No 162, item 1147	Protocol on implementing the Agreement – as an integral part of the Agreement	Warsaw 19 September 2005

<b>Kingdom of Sweden</b>	Agreement between the Government of the Republic of Poland and the Government of the Kingdom of Sweden on Readmission of Persons residing without authorisation	Stockholm 1 September 1998	Agreement entered into force on 09.04.1999	The Agreement does not provide for concluding an implementing agreement	1 September 1998
<b>Ukraine</b>	Agreement between the Government of the Republic of Poland and the Government of Ukraine on Transfer and Readmission of Person across the Common State Border	Kiev 24 May 1993	Agreement entered into force on 10.04.1994	Protocol on implementing the Agreement between the Government of the Republic of Poland and the Government of Ukraine on Transfer and Readmission of Person across the Common State Border. Additionally: Readmission agreement UE O Ukraine of 18 June 2007 [agreement entered into force on 01.01.2008]	Kiev 24 May 1993
<b>Republic of Hungary</b>	Agreement between the Government of the Republic of Poland and the Government of the Republic of Hungary on Transfer and Readmission of Persons residing without authorisation at State Boarder	Budapest 25 November 1994	Agreement entered into force on 05.08.1995	Agreement between the Minister of the Interior of the Republic of Poland and the Minister of the Interior of the Republic of Hungary on implementing the Agreement on Transfer and Readmission of Persons residing without authorisation at State Boarder	Budapest 24 November 1994
<b>Socialist Republic of Vietnam</b>	Agreement between the Government of the Republic of Poland and the Government of the Socialist Republic of Vietnam on Transfer and Readmission of Nationals of Both Countries	Hanoi 22 April 2004	Agreement entered into force on 14.05.2005. Journal of Laws 2005, No 156, item 1306 and 1307	Agreement between the Minister of Interior and Administration of the Republic of Poland and the Minister of Public Safety of the Socialist Republic of Vietnam on implementing the Agreement between the Government of the Republic of Poland and the Government of the Socialist Republic of Vietnam on Transfer and Readmission of Nationals of Both Countries	Hanoi 22 April 2004

Apart from the abovementioned, as regards to the Republic of Belarus, returns of foreigners within the readmission procedure are implemented on the basis of the Agreement between the Government of the Polish People's Republic and the Government of the Union of Soviet Socialist Republics of 15 February

1961 on legal relations in the Polish – Soviet state border, cooperation and mutual assistance on border issues which included also the readmission clause – Polish Border Guard is collecting statistical data related to the abovementioned agreement since mid 2014.

**TABLE 4.2**

Multilateral Readmission agreements signed by Poland (as of 15 march 2014):  
Material of the Border Guard

Name of the Country	Title of the Agreement	Place and date the Agreement was signed	Title of the Implementing Agreement	Place and date the Implementing Agreement was signed	Remarks
<b>The Kingdom of Belgium, Federal Republic of Germany, French Republic, The Kingdom of Netherlands, The Grand Duchy of Luxembourg, Italian Republic [Schengen States]</b>	Agreement on the Readmission of Persons residing without authorisation	Brussels 29 March 1991	Protocol on the establishment of technical conditions for the transfer of persons at the border between the Republic of Poland and the Federal Republic of Germany in connection with the implementation of the Agreement of 29 March 1991 between the Governments of the Schengen Group States and the Government of the Republic of Poland concerning the readmission of persons residing without authorization, and the Agreement of 7 May 1993 between the Government of the Republic of Poland and the Government of the Federal Republic of Germany concerning cooperation with regards to the effects of migration movements	Warsaw 29 September 1994	The Agreement entered into force on 01.04.1991, and for Poland on 01.07.1991

**TABLE 4.3**

UE readmission agreements with third countries signed by Poland (as of 15 march 2014): Material of the Border Guard

Country	Date the agreement was signed	Date of the entry into force
HONG KONG	27.11.2002	01.03.2004
MAKAO	13.10.2003	01.06.2004
SRI LANKA	04.06.2004	01.05.2005
ALBANIA	14.04.2005	01.05.2006
RUSSIA	25.05.2006	01.06.2007
UKRAINE	18.06.2007	01.01.2008
MONTENEGRO	18.09.2007	01.01.2008
MACEDONIA	18.09.2007	01.01.2008
SERBIA	18.09.2007	01.01.2008
BOSNIA AND HERZEGOVINA	18.09.2007	01.01.2008
MOLDOVA	10.10.2007	01.01.2008
PAKISTAN	26.10.2009	01.12.2010
GEORGIA	22.11.2010	01.03.2011
ARMENIA	19.04.2013	01.01.2014
CAPE VERDE	18.04.2013	Waiting for the entrance into force
AZERBAIJAN	28.02.2014	01.09.2014
TURKEY	16.12.2013	01.10.2014

Countries the European Union signed agreements [however not readmission agreements] that already included readmission clauses:

1. Agreement between the EU and South Korea of 10 May 2010 [entered into force on 1 June 2014];
2. Agreement between the EU and Australia of 28 March 2014 [entered into force on 1 August 2014];

3. Cotonou Agreement [79 countries] of 23 June 2000 [entered into force on 1 April 2003];
4. Agreement between the EU and Indonesia of 9 November 2009 [entered into force on 1 May 2014].

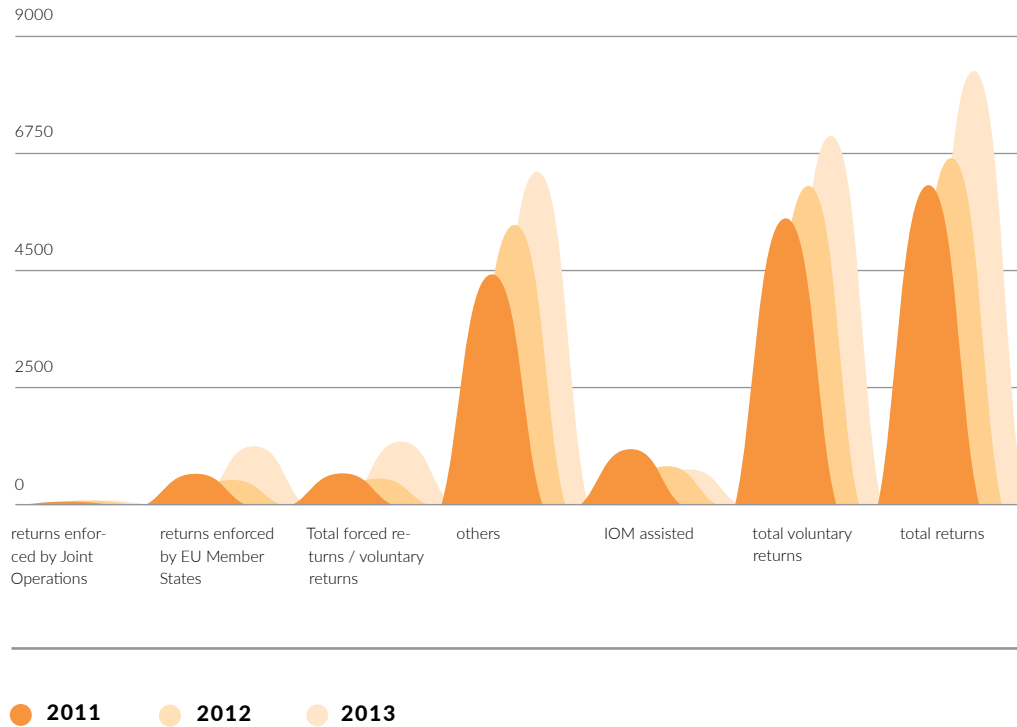
**TABLE 4.4**

Number of foreigners readmitted from Poland under the readmission agreement between 2010-2013. Material of the Border Guard

	2010	2011	2012	2013
<b>Total</b>	<b>347</b>	<b>739</b>	<b>379</b>	<b>420</b>
<b>Montenegro</b>	No data	No data	0	0
<b>Cotonou Agreement</b>	No data	No data	12	2
<b>Russia</b>	No data	No data	12	33
<b>Ukraine</b>	220	652	291	224
<b>Vietnam</b>	127	87	33	107

**GRAPH 4.1**

Number of foreigners who have left the territory of Poland between 2010-2013: Material based of data provided by the Border Guard [Frontex, table 7b]

**TABLE 4.5**

Number of foreigners who have left the territory of Poland between 2010-2013: Material based of data provided by the Border Guard [Frontex, table 7b]

	Total returns	Total voluntary returns	IOM assisted	Others	Total forced returns / involuntary	Returns enforced by EU Member States	Retuens enforced by Joint Operations
<b>2011</b>	6 144	5 519	1 078	4 441	625	604	21
<b>2012</b>	6 655	6 143	750	5 393	512	484	28
<b>2013</b>	8 329	7 106	689	6 418	1 223	1 134	89

**TABLE 4.6**

Number of foreigners who have left the territory of Poland in 2013 by citizenship: Material based of data provided by the Border Guard [Frontex, table 7b]

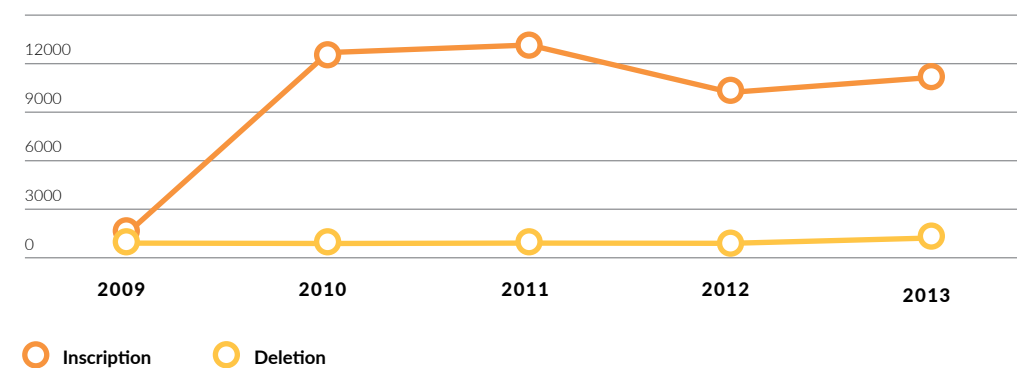
Citizenship	Total Returns	Total Voluntary	IOM Assisted	Others	Total Forced	Enforced by Member State	Enforced by Joint Operation
<b>Afghanistan</b>	15	3	1	2	12	12	
<b>Albania</b>	5	1	1	–	4	4	–
<b>Algeria</b>	1	0	–	–	1	1	–
<b>Saudi Arabia</b>	1	0	–	–	1	1	–
<b>Armenia</b>	66	36	18	18	30	30	–
<b>Azerbaijan</b>	11	10	–	10	1	1	–
<b>Belarus</b>	444	439	9	430	5	5	–
<b>Bulgaria</b>	7	5	5	–	2	2	–
<b>Chile</b>	1	0	–	–	1	1	–
<b>China</b>	19	13	2	11	6	6	–
<b>Democratic Republic of Congo</b>	2	–	–	–	2	2	–
<b>Egypt</b>	11	3	1	2	8	8	–
<b>Philippines</b>	5	5	5	–	–	–	–
<b>Gambia</b>	2	–	–	–	2	2	–
<b>Georgia</b>	377	35	20	15	342	295	47
<b>Guinea</b>	1	–	–	–	1	1	–
<b>India</b>	8	3	2	1	5	5	–
<b>Iran</b>	4	2	–	2	2	2	–
<b>Iraq</b>	9	1	–	1	8	8	–

Japon	1	1	–	1	–	–	–
Jordan	1	1	–	1	–	–	–
Cameroon	1	1	1	–	–	–	–
Canada	2	2	–	2	–	–	–
Kyrgyzstan	23	20	–	20	3	3	–
Kazakhstan	35	28	–	28	7	7	–
Kenya	1	1	1	–	–	–	–
Columbia	1	1	1	–	–	–	–
Kosovo	2	–	–	–	2	2	–
South Korea	3	3	–	3	–	–	–
Lebanon	1	1	–	1	–	–	–
Libya	1	–	–	–	1	1	–
Morocco	3	–	–	–	3	3	–
Mexico	3	3	3	–	–	–	–
Moldova	40	35	–	35	5	5	–
Mongolia	24	18	9	9	6	6	–
Nepal	6	4	5	–	2	2	–
Nigeria	4	1	–	1	3	3	–
Panama	1	1	–	1	–	–	–
Pakistan	19	5	5	–	14	11	3
Russia	2 234	1 734	476	1 258	500	461	39
USA	3	3	–	3	–	–	–
Sri Lanka	3	1	1	–	2	2	–
Tajikistan	9	8	2	6	1	1	–

Turkey	6	2	–	2	4	4	–
Tunisia	1	1	1	–	–	–	–
Ukraine	4 747	4 625	76	4 549	122	122	–
Uzbekistan	31	23	17	6	8	8	–
Vietnam	133	26	26	–	107	107	–
Zambia	1	1	1	–	–	–	–
<b>TOTAL</b>	<b>8 329</b>	<b>7 106</b>	<b>689</b>	<b>6 418</b>	<b>1 223</b>	<b>1 134</b>	<b>89</b>

**GRAPH 4.1**

Number of inscriptions/deletions of foreigners' data into the List of foreigners whose stay on the territory of the Republic of Poland is undesirable: Material of the Office for Foreigners



	2009	2010	2011	2012	2013
<b>Inscription</b>	10 495	11 434	11 845	9 138	9 697
<b>Deletion</b>	408	387	409	396	693

# 5

## Conclusions

## Conclusions

Pursuant to the provisions of the new Act on Foreigners [Act of 12 December 2013, Journal of Laws 2013, item 1650 and the Announcement of the Speaker of the Sejm of the Republic of Poland of 2 April 2014, Journal of Laws 2014 item 463], which entered into force on 1 May 2014, an illegal stay<sup>19</sup> of a foreigner on the territory of the Republic of Poland results in the initiation of administrative proceedings obliging the foreigner to return. Proceedings are initiated and conducted by the commanding officer of the Border Guard post or the commanding officer of the Border Guard unit.

A return decision may specify the time of the voluntary return, which ranges from 15 to 30 days and is calculated from the date on which the third-country national is notified of the decision. Should such decision be issued, a foreigner is obliged to leave the territory of the Republic of Poland within the time indicated therein (entering the territory of another EU Member State/ Schengen area state does not constitute the implementation of the decision). The decision that does not specify the period for voluntary return shall be executed by force. Additionally enforced return shall be possible if following the issuance of the decision, in which the deadline for voluntary return was defined:

- the foreigner is likely to abscond,
- the foreigner's stay is deemed a threat to national defence or security,
- the alien fails to fulfil his/her obligation to leave

the territory of the Republic of Poland within the period specified in the decision.

Enforcement of the return decision results in entering the alien's data into the SIS for the purposes of refusing entry. Thus, the entry ban becomes valid not only within the territory of the Republic of Poland, but also in other countries of the Schengen area.

In its decision obliging an alien to return, re-entry ban into the territory of the Republic of Poland, or into the territory of Poland and other countries of the Schengen area shall be included. The period of validity of the ban ranges from 6 months to 5 years, depending on the circumstances on the basis of which the decision was issued.

Re-entry ban on the territory of the Republic of Poland and other countries of the Schengen area is issued following a decision obliging an alien to return, in which:

- the deadline for voluntary return is not specified;
- the deadline for the voluntary return is specified - in cases in which the foreigner:
  - fails to leave the territory of the Republic of Poland, or
  - crosses or attempts to cross the border in violation of the law within this period.

Entry ban may be withdrawn at the request of the alien, if he/she proves that:

- he/she has fulfilled the obligations arising from

<sup>19</sup>. A foreigner's stay on the territory of the Republic of Poland is deemed illegal in particular if the foreigner: does not hold a valid visa or another valid document entitling him/her to enter and stay on the territory of the Republic of Poland, has not left the territory of the Republic of Poland following the expiry of the authorized duration of stay, has illegally crossed or attempted to illegally cross the border,

has worked illegally, has undertaken an economic activity in violation of applicable regulations, does not have sufficient funds to remain on the territory of the Republic of Poland, has been entered into the list of alerts for the purpose of refusing entry in the Schengen Information System or in the national register of foreigners whose stay on the territory of the Republic of Poland is undesirable.

- the decision,
- his/her re-entry into the territory of the Republic of Poland or other countries of the Schengen area is justified by specific circumstances, in particular humanitarian reasons,
- he/she has been granted assistance in voluntary return.

Readmission is yet another instrument facilitating the effective management of return of foreigners who reside illegally in the territory of Poland. It may be defined as a form of co-operation between states, consisting in a simplification of formalities with regard to sending foreigners back to their countries of citizenship or to the countries of origin or to the countries they have the right to return to (in the event they do not have the right to reside in the territory of the returning country) and with regard to the procedures of receiving these persons by the countries obliged thereto.

International agreements between the states, the so-called readmission agreements, govern in detail the principles of procedure in this matter and set forth the rules for receiving (returning) the citizens of the agreeing parties and foreigners residing in the territories of the agreeing parties. The citizens of the states that have signed such agreements, the third-country nationals residing in the territories of the agreeing parties as well as persons with no citizenship or nationality (i.e. stateless persons) are usually subject to transfer within the readmission procedure. Readmission agreements as well as executive protocols lay down the detailed rules on return of foreigners and give deadlines to the readmission procedures. A person may be readmitted within the framework of simplified or a full readmission procedure<sup>20</sup>.

Poland is currently the party to 37 readmission agreements in force, including 19 bilateral agreements signed by Poland with third countries and other member states, one multilateral agreement between Poland and the Schengen states as well as 17 agreements signed by the European Union and third countries.

The agreements signed at EU-level create new perspectives for Poland with regard to return of illegal migrants by offering the opportunities to establish direct relations with other states and to implement new arrangements in the field of return management. One of the facilitations that may be introduced (also in the future) on the basis of the EU readmission agreements is the possibility to use the European Travel Document for the Expelled Third-Country Nationals in the event of those readmitted foreigners who are not in a possession of any travel document. Poland has already taken advantage of this opportunity when returning persons to Sri Lanka under readmission procedure.

In practice, returning persons under the simplified procedure is most common. There are fixed points along the state border with the neighbouring countries, i.e. the Federal Republic of Germany, the Czech Republic, Slovakia and Ukraine, used for readmission proceedings managed during 48 hours from the border-crossing. The agreement on returning and receiving persons signed with Lithuania is an exception in this field, as according to this agreement a simplified readmission procedure may only be followed during 24 hours from the illegal state border-crossing. In these cases, returning such persons is processed without undue formality, upon a readmission protocol.

The implementation of readmission agreements in accordance with the full procedure is observed by an assigned unit in the Foreigners Department of the Border Guard Headquarters and, in case of the readmission agreement signed with Ukraine and Lithuania, by locally competent Commander of the Border Guard Division, that submits readmission requests to the assigned units in the states with whom the Republic of Poland has signed readmission agreements and which are in charge of the implementation of these tasks.

The citizens of Ukraine, Russia and Vietnam are among the largest groups of migrants illegally staying in the territory of the Republic of Poland. Bearing in mind that Poland has signed readmission agreements with these countries, returning foreigners

coming from these groups occurs most often. It is also worth mentioning that Poland is one of few EU countries (apart from Germany, Great Britain and Slovakia) which signed a bilateral readmission agreement with the Socialist Republic of Vietnam.

As to the implementation of bilateral and multilateral agreements signed by the Republic of Poland with other countries requests for the "full" readmission procedure to France, Greece and Germany have been recently applied more often.

The abovementioned data clearly states that the readmission agreements that Poland is a party to significantly influenced on the effectiveness of identification procedures conducted towards undocumented foreigners as well as implementation of return of foreigners. The said have also impacted launching and further development of collaboration with third countries in the general scope of the return policy.

In terms of the provision of reintegration assistance in the country of return, reintegration projects co-financed from EU funds and the state budget, and coordinated by the International Organizations for Migration, are of primary importance. In 2013,

two projects regarding voluntary return and reintegration in the country of return were implemented, i.e. "Consultation, travel, reintegration - assistance in voluntary return from Poland" and "Phase II: Assistance for voluntary return from Poland and for reintegration". One of the important features of this organized reintegration assistance consists in excluding from the assistance programme these foreigners who are transferred within the scope of readmission agreements or are detained in the Border Guard detention centres or arrests for the purpose of expulsion.

The implementation plan for the programme document entitled "Migration policy of Poland - the current state of play and further actions", as well as the Act of 12 December 2013 on Foreigners, provide for the possibility of organization of voluntary return and reintegration assistance in the country of return directly by governmental institutions, which have thus far cooperated in this matter only with the International Organization for Migration, i.e. the Headquarters of the Border Guard and the Office for Foreigners.

<sup>20</sup> A simplified procedure means that a third-country national or a stateless person, who crossed the common border illegally, is taken back without an earlier application lodged by one of the agreeing

parties, provided that 48 hours have not elapsed since the illegal border-crossing.





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Should a return decision be issued, a foreigner is obliged to leave the territory Poland. However, leaving Poland and entering the territory of another Schengen area state does not mean that the decision was executed. Enforcement of the return decision results in entering the foreigner's data into the SIS system for the purposes of refusing entry. Thus, the entry ban becomes valid not only within the territory of Poland, but also in other countries of the Schengen area.

This report was prepared in relation with Polish membership in the European Migration Network and constitutes contribution to the report synthesising the knowledge about entry bans policy and use of readmission agreements in the EU countries plus Norway.

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