



# Input by civil society organisations to the Asylum Report 2023

Dear Colleagues,

The production of the *Asylum Report 2023* is currently underway. The annual [Asylum Report series](#) presents a comprehensive overview of developments in the field of asylum at the regional and national levels.

The report includes information and perspectives from various stakeholders, including experts from EU+ countries, civil society organisations, UNHCR and researchers. To this end, we invite you, our partners from civil society, academia and research institutions, to share with us your reporting on developments in asylum law, policies or practices in 2022 (and early 2023) by topic as presented in the online survey.

Please note that the Asylum Report does not seek to describe national systems in detail but rather to present key developments of the past year, including improvements and challenges which remain. Your input can cover practices of a specific EU+ country or the EU as a whole. You can complete all or only some of the sections.

All submissions are publicly accessible. For transparency, 2022 contributions will be published on the EUAA webpage. For reference, contributions to the 2022 Asylum Report by civil society organisations can be accessed [here](#), under 'Acknowledgements'. All contributions should be appropriately referenced. You may include links to supporting material, such as analytical studies, articles, reports, websites, press releases or position papers. If your organisation does not produce any publications, please make reference to other published materials, such as joint statements issued with other organisations. Some sources of information may be in a language other than English. In this case, please cite the original language and, if possible, provide one to two sentences describing the key messages in English.

The content of the Asylum Report is subject to terms of reference and volume limitations. Contributions from civil society organisations feed into EUAA's work in multiple ways and inform reports and analyses beyond the Asylum Report.

Your input matters to us and will be much appreciated!

\*Please submit your contribution to the Asylum Report 2023 by **Friday, 3 February 2023.**\*





## Instructions

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Before completing the survey, please review the list of topics and types of information that should be included in your submission.

For each response, only include the following type of information:

- ✓ New developments and improvements in 2022 and new or remaining challenges; and
- ✓ Changes in policies or practices, transposition of legislation or institutional changes during 2022.

Please ensure that your responses remain within the scope of each section. Do not include information that goes beyond the thematic focus of each section or is not related to recent developments.

## Contributions by topic

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1. Access to territory and access to the asylum procedure (including first arrival to territory and registration, arrival at the border, application of the *non-refoulement* principle, the right to first response (shelter, food, medical treatment) and issues regarding border guards)

### A. The Polish-Belarusian border

In 2022, **pushbacks at the Polish-Belarusian border continued**. Pushbacks were reported irrespective of a nationality or vulnerability of persons concerned, including families with children, pregnant women, elderly, disabled and ill persons. Persons crossing the Polish-Belarusian border in an irregular manner often asked for international protection, but their asylum claims were ignored by the Polish authorities. They were pushed back despite their pleadings for international protection.

The **law attempting to legitimize pushbacks**, adopted in 2021 (i.e. the Regulation of the Ministry of Interior and Administration of 20 August 2021 and Article 303b of the Act on Foreigners), continued to be in force in 2022 and was **used in practice throughout the year**. As noticed in the recent PRAB report (the Protecting Rights at Borders initiative is formed by protection and legal aid organisations, including SIP, focusing on human rights compliance at the EU's external and internal borders):

(I)n 2022, the Border Guard (...) issued 2,549 decisions ordering an immediate removal from Poland of persons intercepted near the border (based on Article 303b of the Act on Foreigners). Moreover, the Border Guard registered 12,144 'preventions of irregular crossings of the border'. This number includes both persons who managed to avoid interception at the border (e.g. they run away from Polish officers to Belarus) and persons who were returned to Belarus in accordance with the Regulation in force since August 2021 (entitling to return a person identified away from the official border crossings without any decision being issued). According to different data (given to Egala), since August 2021, the Border Guard removed 50.668 persons from Polish territory immediately upon their arrival from Belarus (PRAB 2023, Stowarzyszenie Egala 2023).

Throughout the year, only 6 persons **appealed** against decisions ordering their immediate removal from Poland. None of those appeals was successful. Ten complaints on these decisions have been submitted to the Provincial Administrative Court in Warsaw in 2022. The court repealed administrative decisions



in this regard in 7 cases, in one – it rejected the complaint, but it is pending before the Supreme Administrative Court. The remedies against decisions ordering an immediate removal from Poland are not effective: they do not entail a suspensive effect.

In 2022, several **Polish courts**:

- a. found that the abovementioned Regulation, that allowed for immediate pushbacks without any decision being issued, has no legal basis and is incoherent with the Polish Constitution, the 1951 Refugee Convention and the Charter of Fundamental Rights of the EU.

*Exemplary court cases:*

- District Court in Bielsk Podlaski, VII Penal Division in Hajnówka (*Sąd Rejonowy w Bielsku Podlaskim, VII Zamiejscowy Wydział Karny w Hajnówce*), order of 28 March 2022, no. VII Kp 203/21.
- Provincial Administrative Court in Białystok (*Wojewódzki Sąd Administracyjny w Białymstoku*), judgment of 15 September 2022, no. II SA/Bk 492/22, II SA/BK 493/22, II SA/Bk 494/22.

- b. annulled the decisions ordering third-country nationals' immediate removal (based on Article 303b of the Act on Foreigners) due to the lack of rigorous scrutiny on the part of the Border Guards, the incoherence with the principle of non-refoulement, and the lack of a suspensive effect of the available remedy.

*Exemplary court cases:*

- Provincial Administrative Court in Warsaw (*Wojewódzki Sąd Administracyjny w Warszawie*), Judgments of 27 April 2022, no. IV SA/Wa 471/22, and 26 April 2022, no. IV SA/Wa 420/22.
- Provincial Administrative Court in Warsaw (*Wojewódzki Sąd Administracyjny w Warszawie*), judgment no. IV SA/Wa 615/22.

The pushbacks at the Polish-Belarusian border have been also challenged before the **European Court of Human Rights** (ECtHR) (see also HFHR 2022a). Three cases have been already communicated, i.e.

- *R.A. and others v. Poland*, no. 42120/21,
- *K.A. v. Poland and M.A. and others v. Poland*, nos. 52405/21 and 53402/21, and
- *F.A. and S.H. v. Poland*, no. 54862/21.

Other applications of pushback-victims are awaiting communication, including a case of a married couple from Algeria, who tried to seek international protection in Poland. They suffered several pushbacks at the Polish-Belarusian border. The vulnerability of the woman, who had just miscarried, was not considered by the Polish authorities. The family spent many days in the forest in inhuman conditions, without shelter, medicine, food and drinking water. Violations of Articles 2, 3 and 13 of the ECHR as well as Article 4 of Protocol no. 4 to the ECHR have been indicated in the application to the ECtHR (SIP 2022a).

Despite the **construction of the 5.5 meters-high razor-wired fence** at the Polish-Belarusian border in 2022, third-country nationals continued to cross this border in an irregular manner (and were still being pushed back if apprehended). Some of them were climbing on the fence and – more rarely – dug holes under it. There are also some places where the fence was not built – due to geographical conditions therein. Thus, third-country nationals are now forced to risk crossing the border through swamps, wetlands and rivers. As indicated in the recent PRAB report, based on the Grupa Granica's information (Grupa Granica is a collaboration of NGOs, including SIP, aiding at the Polish-Belarusian border):

(M)any persons have suffered injuries while climbing and coming off the fence. Crossing the border through swamps, wetlands, and rivers - now even more due to the construction of the fence - increased risk of drownings, injuries, hypothermia or death. The ambulances have been called for by Grupa Granica only rarely since the Border Guard was known for taking third-country nationals from hospitals and pushing them back to Belarus. In consequence, in the second part of 2022, the increasing number of interventions of Grupa Granica required providing expert medical assistance (PRAB 2023).

In this way, the construction of the fence at the Polish-Belarusian border **increased suffering of the persons trying to enter Poland** and seek protection therein. The blood-curdling example of the dangers that the fence created and of the indifference of the Polish authorities is the case of a man stuck on the fence in October 2022. His leg got tangled up in the wire and he was hanging head-down 5 meters above the ground. It was watched and ridiculed by the Polish army who did not offer the man any assistance. They only photographed and recorded the event. Eventually, the man fell. His fate afterwards is unknown.

As of 25 January 2023, at least **34 persons died** at the Polish-Belarusian border since the beginning of the humanitarian crisis in August 2021.

In 2022, **the level of violence** used by the Polish and Belarusian authorities during pushbacks **has risen** (HFHR 2022b). In the period of May-December 2022, 'a total of 266 persons informed Grupa Granica that they had experienced violence from Polish forces.(...) The true level of violence is, according to Grupa Granica, much higher than what is reported.' (PRAB 2023).

Until 30 June 2022, the access to the near-border area (3 km from the border) continued to be prohibited to medics, NGOs and humanitarian organizations. In those circumstances, access to humanitarian, medical and legal assistance of third-country nationals crossing the Polish-Belarusian border has been hampered to a great extent. Since 1 July 2022, **the near-border area with reduced mobility shrank** to 200 m. It enabled access of medics, NGOs and humanitarian organizations to the area that was before outside their reach. More information about the scope of humanitarian and medical assistance provided by Grupa Granica is available in its periodic reports (Grupa Granica 2022a, Grupa Granica 2022b).

**Criminalization of the humanitarian assistance** at the Polish-Belarusian border continued in 2022. Since 2021, persons providing humanitarian assistance to third-country nationals crossing the Polish-Belarusian border were arrested, or misdemeanor proceedings were initiated against them (Fundacja Ocalenie 2022). First judgments were delivered in this regard in 2022. For example, on the one hand, in July 2022, an activist who took an ill third-country national to the hospital was acquitted. The court reminded in its judgment that providing humanitarian assistance is not a crime (Stowarzyszenie Egala 2022a). On the other hand, another activist, who showed Police where to seek third-country nationals in distress, was found guilty of insulting a policeman (Stowarzyszenie Egala 2022b). In yet another case, concerning the arrest of persons wanting to aid a Syrian national in hypothermia, and the seizure of their phones and rescue equipment, the court found actions of the Polish army legal (albeit noticed some procedural violations) (Fundacja Ocalenie 2023).

The **attempts to criminalize irregular border crossings by asylum seekers/refugees** have been also reported in 2022. However, in June 2022, the District Court in Biala Podlaska discontinued criminal proceedings concerning a Belarusian national who swam through the Bug River in order to seek asylum in Poland. Subsequently, he was granted refugee status in Poland. Despite that, he was charged with illegally crossing the border in collusion with other persons who allegedly provided him with information about the lie of the land and provided him with means of transport (Article 264 §2 of the Polish Criminal Code). The District Court in Biala Podlaska noticed that Article 31(1) of the Geneva Convention provides for a conditional de-penalisation of illegal border-crossing by refugees and the defendant did apply for asylum straightaway after his arrest (SIP 2022v).

*Exemplary court cases:*

- District Court in Biał Podlaska (*Sąd Rejonowy w Białej Podlaskiej*), judgment of 3 June 2022, no. II K 796/21.

Moreover, since October 2021, the Head of the Office for Foreigners can **refuse considering an asylum application** of a person who have been apprehended just after his/her irregular crossing of the border, unless he/she arrived directly from a territory where he/she was in danger, reasonably explained the irregular entry, and applied for international protection straightaway upon entry (Article 33(1a) of the 2003 Act on Protection).

In 2022, problems with accessing Poland and asylum proceedings continued also **at the regular border crossings with Belarus**. There, asylum claims were intentionally not heard by the Border Guard in some cases. The prospective asylum seekers received decisions on a refusal of entry that were immediately enforced despite their pleadings for asylum. This practice has been already condemned by the ECtHR several times, most recently in judgments delivered in cases:

- *A.I. and Others v. Poland*, no. 39028/17, 30 June 2022,
- *A.B. and Others v. Poland*, 42907/17, 30 June 2022, and
- *T.Z. and Others v. Poland*, no. 41764/17, 13 October 2022.

There is **no effective remedy** against the decision on a refusal of entry available in Poland, as an appeal does not entail a suspensive effect. Moreover, the appeal proceedings in this regard are initiated rarely. In total, in 2022, 28.170 decisions on a refusal of entry were issued. At the Polish-Belarusian border, 2.623 such decisions were issued throughout the year (Border Guard 2023). Meanwhile, with regard to all border crossings, only 80 appeals against decisions on a refusal of entry were submitted to the first-instance appeal authority and 1 onward appeal to the court. Only one appeal has been considered justified.

In conclusion, third-country nationals who cross the Polish-Belarusian border – both in a regular and irregular manner – often still cannot effectively initiate asylum procedure in Poland and instead they are pushed back to Belarus. The suffering of third-country nationals and the criminalization of the humanitarian assistance at the Polish-Belarusian border continued in 2022.

## B. The Polish-Ukrainian border

At beginning of the Russian invasion in Ukraine, **Poland promptly allowed entry** to persons fleeing the war. While some obstacles were registered back then, in general it may be concluded that the borders were open to war evacuees. However, as shown by the statistical data of the Border Guard, soon upon the beginning of the conflict, it started to issue **decisions on a refusal of entry at the Polish-Ukrainian border** (SIP 2022b, SIP 2022c). In the period of March-December 2022, the Border Guard issued in total 13.534 decisions on a refusal of entry at this part of the Polish border. This number includes decisions issued as regards Ukrainian nationals (10.406) and other third-country nationals. In the same period, 12.899 Ukrainian nationals were denied entry to Poland if one considers all Polish external borders (PRAB 2023). Official reasons stated by the Border Guard were, first of all, exceeding the 90-day period for visa-free movement in the EU, and, secondly, the lack of documents entitling to entry, e.g. a visa or a residence permit. Several persons have been denied entry for national security reasons.

The above-mentioned numbers include persons who tried to enter Poland for the first time as well as those who already were granted temporary protection in Poland, but temporarily returned to Ukraine.

As regards the **temporary protection beneficiaries**, initially, the refusals of entry resulted from the fact that Ukrainian nationals and their spouses, so persons eligible for a temporary protection under the 2022 Special Law (*Ustawa z dnia 12 marca 2022 r. o pomocy obywatelom Ukrainy w związku z konfliktem zbrojnym na terytorium tego państwa*), were not given any residence permits. Thus, the Polish Border Guard took a stand – at least in some cases – that those persons have a right to stay in Poland but not

to enter the Polish territory; for entering the right to a visa-free movement, a visa or another residence permit was required by the Border Guard. As a result, until July 2022, difficulties with returning to Poland were reported by Ukrainian nationals due to the lack of a residence permit required under Article 8 of the Temporary Protection Directive (SIP 2022c, SIP 2022d). Afterwards, the electronic document 'Diiia.pl' was introduced and notified as a residence permit to the European Commission. With a valid passport, the 'Diiia.pl' entitles to cross a Polish border (albeit children with temporary protection status were not allowed to obtain 'Diiia.pl' in 2022). However, temporary protection beneficiaries still may be denied entry to Poland, e.g. if they stay in Ukraine for a period longer than one month. Such cases were reported in practice (Commissioner for Human Rights 2022a). Under the Polish law, the temporary protection status is lost in those circumstances, so the 'Diiia.pl' becomes invalid. Poland did not implement Article 21 of the Temporary Protection Directive, concerning voluntary returns. In accordance with Article 21(2) of the Temporary Protection Directive, the Member States are obliged to give favorable consideration to requests for return to the Member State upon a voluntary return. However, this provision has not been implemented into the 2022 Special Law and, as shown by the above-mentioned statistical data, the 'favorable consideration' seems to be lacking at the Polish borders (SIP 2022c). Moreover, some temporary protection beneficiaries who left Poland for shorter periods of time than one month also informed in 2022 that they lost their temporary protection status. It resulted from another unfavourable practice of the Border Guard which registers - in a dedicated registry - all departures from Poland of those beneficiaries, but only some returns to Poland of those persons. Border Guard claims that the person concerned must declare at the border crossing point that he/she is entering Poland due to the war in Ukraine, even if he/she has already been granted temporary protection in Poland for this reason. If such a declaration is lacking, his/her return to Poland is not inscribed into the special registry. It may eventually lead to the loss of temporary protection status.

### C. Russian nationals

Since September 2022, Russian nationals – also those wanting to seek international protection – face increased obstacles in accessing the Polish territory and, in consequence, asylum proceedings.

On 19 September 2022, Poland (like Lithuania, Latvia and Estonia) introduced **restrictions regarding the entry of Russian nationals** travelling solely for the purpose of business, tourism, leisure or sport. Russian nationals travelling for those purposes cannot enter Poland through its external borders. There are exceptions from this rule, but in practice they seem to be insufficient. For example, it has been reported by the civil society that Russian nationals seeking international protection or being family members of Ukrainian nationals staying in Poland, were denied entry to Poland upon the introduction of the above-mentioned restrictions. Statistical information provided by the Polish Border Guard shows that these new restrictions affected mostly the Russian nationals' entry at the Polish airports. Since September 2022, the numbers of decisions on a refusal of entry concerning Russian nationals issued at the airports significantly raised.

Moreover, Russian nationals are also facing **obstacles in obtaining visa** to Poland. In September 2022, SIP noticed that Polish Consular Services are refusing to accept visa applications from some Russian nationals. Only applications for work purposes or submitted by persons having *Karta Polaka* (a document confirming belonging to the Polish nation) or being family members of Polish and EU citizens, have been accepted. Ministry of Interior and Administration did not deny introducing those limitations, but justified them by the fact that many employees of Polish diplomatic missions were recently deported from Russia and accessing Polish bank accounts in Russia has been hampered. According to the Ministry though, every case is individually assessed, also visa applications of family members of third-country nationals staying in Poland or of persons seeking humanitarian admission to Poland (SIP 2022u).

2. Access to information and legal assistance (including counselling and representation)
3. Provision of interpretation services (e.g. introduction of innovative methods for interpretation, increase/decrease in the number of languages available, change in qualifications required for interpreters)

While legal aid in appeal asylum proceedings is guaranteed in Poland and financed by the Office for Foreigners, since 2020 the Office has started to question its obligation to **cover the expenses of the interpretation services** used by lawyers to communicate with their asylum-seeking clients. SIP opposed against this practice before the administrative courts in 8 cases where the Office for Foreigners refused to pay for the translation. The administrative courts confirmed in 2021 that the interpretation services should be publicly financed in those circumstances (SIP 2021, SIP 2022h). Thanks to those judgments, in 2022, no more problems in this regard were reported by lawyers supporting asylum seekers.

*Exemplary court cases:*

- Supreme Administrative Court, judgment of 14 December 2021, no. II OSK 177/21.
- Supreme Administrative Court, judgment of 28 October 2021, no. II OSK 178/21.
- Supreme Administrative Court, judgment of 28 October 2021, no. II OSK 271/21.

4. Dublin procedures (including the organisational framework, practical developments, suspension of transfers to selected countries, detention in the framework of Dublin procedures)

In 2022, due to the war in Ukraine and a large numbers of war evacuees arriving to Poland, some states **temporarily suspended Dublin transfers** to Poland. According to the Office for Foreigners, while in March 16 persons were transferred to Poland, in the period of April-July only two asylum seekers were sent back to Poland under the Dublin III Regulation. Regular Dublin transfers seem to be resumed since August 2022.

Moreover, some national courts of the Member States decided in 2022 that the **transfer to Poland should not be effected due to other reasons**: the inhuman and degrading conditions in Polish detention centres, the continuing problem of immigration detention of children, the pushbacks at the Polish-Belarusian border, the treatment of LGBTQ+ persons, as well as – more generally – the rule of law crisis in Poland (HFHR 2023, ELENA 2022).

The doubts as regards Dublin transfers to Poland led to asking the Court of Justice of the EU (CJEU) preliminary questions in the case C-392/22.

5. Special procedures (including border procedures, procedures in transit zones, accelerated procedures, admissibility procedures, prioritised procedures or any special procedure for selected caseloads)
6. Reception of applicants for international protection (including information on reception capacities – increase/decrease/stable, material reception conditions – housing, food, clothing and financial support, contingency planning in reception, access to the labour market and vocational training, medical care, schooling and education, residence and freedom of movement)

Despite the SIP's complaint to the European Commission in 2020 (SIP 2020) and the Polish government's attempt to amend the respective law in 2021, the **financial allowances** that are granted

to asylum seekers living outside of the reception centres **have not been increased** in 2022. Thus, they continuously do not allow an adequate standard of living for applicants which would guarantee their subsistence and protect their physical and mental health, as required by the CJEU in case C-79/13 *Saciri and Others*. More importantly, those allowances are not sufficient to meet basic human needs, which may lead to extreme poverty and even threaten the life of asylum seekers. In 2022, due to the progressing inflation in Poland, the situation of asylum seekers who received those allowances was even worse than before. Meanwhile, asylum seekers are not allowed to work in Poland (unless asylum proceedings last longer than 6 months). Thus, the above-mentioned financial allowance, that is grossly inadequate considering costs of living in Poland, is often their sole income (SIP 2022l).

In response to the COVID-19 epidemic, the duration of material reception conditions for rejected asylum seekers have been prolonged until the expiry of 30 days following the date of cancellation of the state of epidemic or state of epidemic threat. Even though the state of epidemic threat continued in Poland throughout the year, the provisions concerning the **prolonged access to material reception conditions for rejected asylum seekers** were repealed in April 2022. In the SIP's opinion, this repeal violated the constitutional principle of protection of rightfully acquired rights. In 2022, SIP joined several proceedings before administrative courts regarding the protection of rights rightly acquired by rejected asylum seekers (SIP 2022i). Those cases are pending.

7. Detention of applicants for international protection (including detention capacity – increase/decrease/stable, practices regarding detention, grounds for detention, alternatives to detention, time limit for detention)

#### Ordering detention

District courts accept most of the Border Guard's requests to detain or extend the detained persons' stay in the guarded centres for foreigners (*Strzeżone Ośrodki dla Cudzoziemców*, hereinafter: guarded centres or detention centres). In 2021, almost 99% requests for the extension of the detention period were approved by the district courts. Only 13.5% appeals in this regard were successful. However, the Regional Court in Olsztyn, which is responsible for the detention centre in Kętrzyn, in 2021, revoked approximately half of the decisions extending detention of foreigners, often children or families with children (SIP 2022h). Data for 2022 are yet unknown, but they will be gathered and taken into account in the forthcoming yearly report of SIP.

#### Conditions of detention

In August 2021, Poland decreased the minimum standard for personal living space in guarded centres to **2 square meters**. The new law remained in force and was applied in practice in 2022 even though it breaches international human rights standards and it has been unitedly criticized by NGOs and Polish Commissioner for Human Rights since its adoption. The direct result of this new law is overcrowding in detention centres that was reported in 2022 (Commissioner for Human Rights 2022c).

Until mid-2022, guarded centres, in **Wędrzyn and Czerwony Bór**, adapted for immigration detention purposes in 2021, continued to operate. The conditions therein have been heavily criticized by civil society and Polish Commissioner for Human Rights. The latter observed overcrowding and the lack of common spaces, including the ones dedicated for children, in the centre in Czerwony Bór. The Commissioner assessed the conditions in Wędrzyn as "very bad" for numerous reasons and concluded that the treatment of third-country nationals staying in this centre may be considered inhuman. Thus, it recommended a prompt closure of this detention centre (Commissioner for Human Rights 2022c). The two centres were also controlled by the Supreme Audit Office. In 2022, it noticed that not all legal requirements as regards the operation of and conditions in the guarded centres have been satisfied in these centres. With regard to the centre in Czerwony Bór, *inter alia*, it identified problems with medical and psychological assistance, access to Internet, and lack of canteen. Moreover, the asylum applications were accepted with delay there. With regard to Wędrzyn, the Supreme Audit Office *inter*

*alia* stated that the fire requirements have not been satisfied and the sanitary conditions therein were inappropriate, putting the life and limb of foreigners and Border Guard officers in danger (Supreme Audit Office 2022).

In detention centres in Kętrzyn and Lesznowola third-country nationals were placed in **containers** with significantly decreased living conditions (Commissioner for Human Rights 2022c, SIP 2022h).

One of the main issues reported by detained foreigners in 2022 was limited access to **medical care**, in particular as regards expert medical assistance. They struggled to receive needed health care, even in the event of pregnancy or bone fractures (SIP 2022h). The access to emergence medical assistance in detention centres is also hampered. In January 2023, an ambulance was called for a third-country national on a hunger strike detained in the centre in Lesznowola. There was no medical staff at the time in the centre. The emergency unit was not allowed to enter the detention centre and provide medical assistance to the foreigner (SIP 2023d).

In 2022, **psychological assistance** in detention centres in Poland continued to be insufficient: not enough psychologists worked in the guarded centres and these psychologists, who were often also Border Guard officers, were not trusted by detainees (Commissioner for Human Rights 2022b). Meanwhile, access to detention centres for external psychologists was hindered in 2022. The Border Guard repeatedly denied access to detention centres to psychologists working in NGOs. SIP challenged this new practice before the administrative courts. In the complaints, SIP indicated *inter alia* that, under the Polish and EU law, NGOs have a right to access detention centres, and third-country nationals have a right to contact NGOs, also in order to be assisted by psychologists (SIP 2022s). The courts rejected the SIP's complaints as inadmissible, showing that there is no effective remedy for NGOs who are not allowed to provide assistance in detention centres following the arbitrary decision of the Border Guard.

In 2022, numerous third-country nationals engaged in **hunger strikes** in the detention centers, urging Polish authorities to release them.

## Children

**Children continue to be detained** in Poland for immigration purposes. Polish law still allows for a deprivation of liberty of all accompanied minors (pending asylum and return proceedings) and unaccompanied minors above 15 years old (pending return proceedings). By law, asylum-seeking unaccompanied minors should not be detained, but in practice they are placed in guarded centres, in particular when their age is contested by Polish authorities or when they applied for asylum while staying in detention as irregular migrants. In practice, children are deprived of liberty **automatically, absent a rigorous scrutiny** of their individual situation and needs, or of the psychophysical consequences of detention. In the operative part of the courts' decisions, accompanied minors are sometimes not even mentioned. Child's best interest is often not taken into account. It is also not investigated (at all or sufficiently) whether a detention is a measure of last resort or whether alternatives to detention should be applied. Moreover, children are not being detained for as short a period as possible. Cases of detention of accompanied and unaccompanied minors lasting several months or even over a year are reported (SIP 2022h, SIP 2022l, Commissioner for Human Rights 2022c).

### *Exemplary court cases:*

- District Court in Olsztyn (*Sąd Rejonowy w Olsztynie*), judgment of 15 March 2022, no. II Ko 192/21.

The case concerned an unaccompanied asylum seeker who was arbitrarily considered to be accompanied by the Border Guard and courts. By law, he should have been released from a detention centre when he applied for asylum, but due to the wrongful qualification of him as an accompanied minor, his detention continued. SIP assisted the minor in the proceedings concerning his release and, afterwards, with the application for compensation



for the unlawful detention. In 2022, the District Court in Olsztyn decided that the minor should be granted PLN 20.000 as a compensation for unlawful detention (SIP 2022r).

The **conditions in guarded centres** where minors are placed are not suitable. Detention centers in Poland are prison-like (*inter alia* windows are barred) and not sufficiently adapted to the special needs of children. Children placed in guarded centres do not have sufficient access to education too. They cannot attend regular schools, while the didactic and educational activities in the guarded centres do not cover a minimal scope of the compulsory curriculum (SIP 2022l).

Poland has been repeatedly reproached by the **ECtHR** for detaining families with children in guarded centres without a rigorous examination of alternative measures or the best interest of a child. Poland was found to have violated Article 5 and 8 ECHR in four immigration detention cases. The most recent judgment was delivered on 3 March 2022 in the case *Nikoghosyan and Others v. Poland*, no. 14743/17.

In 2022, SIP submitted a new application to the ECtHR regarding the inhuman treatment and unlawful detention of a family with a two-year old child that lasted almost 6 months despite the poor mental condition of a mother and a child. The best interest of the child and the alternatives to detention were not properly considered. Both the mother and the child were not covered by permanent psychological care, and SIP was denied the possibility of organizing an additional psychological consultation with an independent psychologist for the family. The conditions of the family's stay in the guarded centre were very difficult, including due to the prison nature of the facility, excessively limited size of the room, insufficient food portions, limited opportunities to spend time outdoors or the lack of sufficient protection against summer heat. Their procedural rights have been violated as well. The case has not been communicated yet (SIP 2022t).

The effectiveness of engagement-based **alternatives to detention** in the Polish context has been proven by the ATD pilot (2020-2022) implemented by SIP in cooperation with the Border Guard. The results prove that the community support provided to persons who would otherwise be detained impacts positively their health and wellbeing and contributes to decreased absconding rates (61% of the participants remained engaged in their procedures). The report in this regard is planned to be published in 2023.

### **Victims of violence**

By law, detention of victims of violence is prohibited. However, in practice, victims of violence are detained in the guarded centres pending asylum and return proceedings. The **identification mechanism applied by the Border Guard is ineffective** and too restrictive, resulting in many instances of unlawful detention of victims of violence (SIP 2022h, SIP 2022l, Commissioner for Human Rights 2022c). In particular, persons who suffered **pushbacks at the Polish-Belarusian border** were detained in Poland in 2022 despite being victims of violence (also inflicted at the Polish-Belarusian border) or being in a poor mental state (intertwined with the trauma they experienced at this border). In 2022, SIP continued its litigation before national courts and the ECtHR against unlawful immigration detention following pushbacks (see also PRAB 2023).

#### *Exemplary court cases:*

- District Court in Bielsk Podlaski, VII Penal Division in Hajnówka (*Sąd Rejonowy w Bielsku Podlaskim, VII Zamiejscowy Wydział Karny w Hajnówce*), order of 28 March 2022, no. VII Kp 203/21.

In August 2021, activists found three Afghan men in the woods near the Polish-Belarusian border. Border Guard took them to the station in Narewka where they stayed for couple hours without a contact with their lawyer. Next, in the middle of the night, despite their pleadings for international protection, the Afghan nationals were deported to the strict reserve of the Białowieża Primeval Forest and pushed back to Belarus. The Border Guard explained that it was not a deprivation of liberty, that they just wanted to feed the third-country nationals and give



them a possibility to rest. The court stated that it was a deprivation of liberty and the real motive of the Border Guard was not humanitarian: knowing that the pushback was forthcoming, they wanted to hide foreigners from the public view. In fact, deporting the foreigners to the woods, without proper equipment and in the middle of the night, was highly inhumane. The detention was based on the law (Regulation of the Ministry of Interior and Administration of 20 August 2021) that was incorrectly adopted. Moreover, procedural rights of the third-country nationals were breached too: their detention was not documented, no interpreter was made available, the legal representative was not able to contact them, they were not informed about their rights. Thus, their detention was illegal, incorrect and unjustified (SIP 2022m). The men were finally allowed into Poland. They were placed in the detention centre in inhuman and degrading conditions. Two Afghan nationals, with the SIP's assistance, submitted the application to the ECtHR invoking violations of Article 2, 3, 5, 8 and 13 of the ECHR as well as Article 4 of Protocol no. 4 to the ECHR (SIP 2022n). The case has not been communicated yet.

- Compensation for unlawful detention of the pushback-victims from Afghanistan, case pending before the District Court in Olsztyn (*Sąd Rejonowy w Olsztynie*)

At the Polish-Belarusian border, the family from Afghanistan (parents with three children) was repeatedly pushed back by the Polish authorities. When the family finally managed to cross the border, the foreigners were placed in the detention centre in Kętrzyn, where they applied for international protection. Next, they were transferred to the detention centre in Biał Podlaska. The family spent a total of 97 days in detention. The detention was a traumatic experience for the whole family and amplified their trauma from the country of origin and the Polish-Belarusian border. During the detention in Biał Podlaska, the mother had a miscarriage. She was not provided with adequate medical care during the pregnancy and prior miscarriage. SIP assisted the family with the application for compensation for the unlawful detention (SIP 2022o).

- Application to the ECtHR regarding inhuman and unlawful detention of family from Iraq
- The case concerns a family from Iraq (parents with two children) who repeatedly attempted to cross the Polish-Belarusian border. The family spent a total of 21 days at the border. During this period, they were pushed back 7 times by the Polish authorities. The foreigners experienced violence from the Belarusian Border Guard. Pushbacks had been a traumatic experience for the whole family; in particular, they had a negative impact on the physical and mental health of children. The family has been placed in the detention centre for over 6 months. A long-term detention had a negative impact on the psychological condition of children and deepened their trauma related to the circumstances of crossing the Polish-Belarusian border. One of the children has been struggling with health problems throughout the detention. The application submitted to the ECtHR indicates that Poland violated Articles 3 and 5 of the ECHR. The case has not been communicated yet (SIP 2022p).

## 8. Procedures at first instance (including relevant changes in: the authority in charge, organisation of the process, interviews, evidence assessment, determination of international protection status, decision-making, timeframes, case management – including backlog management)

**Areas of concern with regard to asylum proceedings** constantly include: the quality of translation during interviews, conducting interviews online, no (other than written) recording of interviews, not commissioning expert opinions when needed, ignoring evidence presented by asylum seekers and insufficient legal aid. The rigorous scrutiny is often lacking. Moreover, the length of asylum proceedings in Poland is excessive. Some asylum seekers must wait for a decision for more than 15 months, sometimes even more – in violation of national time-limits (SIP 2022l).

Furthermore, **detained foreigners**, against the law, must wait even several weeks to apply for international protection; their declarations of the intent to seek asylum are not timely registered. It

prolongs their detention and negatively affects the assessment of their asylum claims. They do not have an effective access to asylum procedure (SIP 2022h).

On the one hand, persons seeking protection in Poland, in particular due to **sexual orientation, gender-based violence, religion, as well as torture victims and persons originating from Tajikistan and Russia**, struggle to have their protection needs assessed properly.

On the other hand, in 2022, starting with the beginning of the war in Ukraine, SIP observed a positive change in the Polish authorities' approach to **Ukrainian asylum seekers**. In total, 1.778 Ukrainian nationals applied for international protection in 2022 (some of them though might have withdrawn their applications after the adoption of the 2022 Special Law). The Office for Foreigners informed SIP that in 2022, 962 Ukrainian nationals were granted subsidiary protection (see also SIP 2022j), 3 Ukrainian nationals were granted refugee status, and 33 – were refused international protection. Meanwhile, in the recent years applicants from Ukraine predominantly received negative decisions in asylum proceedings. Any person fleeing the war in Ukraine have a right to apply for international protection in Poland. As temporary protection and international protection are exclusive under the Polish law, in practice 'international protection' pathway was used in 2022 only by persons who were not eligible for temporary protection.

## 9. Procedures at second instance (including organisation of the process, hearings, written procedures, timeframes, case management – including backlog management)

The structure of asylum proceedings has not changed in 2022. The asylum application must be submitted to the Head of the Office for Foreigners, via the Border Guard. The Head of the Office for Foreigners issues the first-instance decision that may be appealed to the Refugee Board (second-instance administrative authority). Only the Refugee Board's decision can be challenged before the administrative courts, first the Provincial Administrative Court in Warsaw and, next, to Supreme Administrative Court.

As regards procedures at second instance, two judgments delivered in 2022 are of particular importance.

In July 2022, the Polish Supreme Administrative Court ruled that the **war in Ukraine must be taken into account** also in the asylum proceedings initiated before the war (no. II OSK 1753/21, SIP 2022k). The judgment is particularly important as it approaches the issue of an incorrect implementation into the Polish legislation of Article 46(3) of the Directive 2013/32/EU (an *ex nunc* examination of asylum applications by the Polish administrative courts).

In September 2022, the Provincial Administrative Court in Warsaw reminded that its **judgments cannot be disregarded** (IV SA/WA 876/22, SIP 2023a). The case concerned an Iraqi national who publicly criticized Islamic State. Moreover, his wife was granted international protection in Poland. The evidence that he had presented to the Refugee Board have been ignored. In 2021, the Provincial Administrative Court in Warsaw annulled the Board's decision indicating that this evidence must be taken into account. The Board again issued a negative decision without considering the evidence given by the applicant. In September 2022, the Provincial Administrative Court in Warsaw annulled the decisions of the Board and the Head of the Office for Foreigners. The court ordered the latter authority to consider all evidence in the case, take into account the fact that the applicant's wife is a refugee, and again scrutinize the situation in Iraq (*inter alia*, by looking into the COI published by the EUAA).

## 10. Availability and use of country of origin information (including organisation, methodology, products, databases, fact-finding missions, cooperation between stakeholders)

**11. Vulnerable applicants (including definitions, special reception facilities, identification mechanisms/referrals, procedural standards, provision of information, age assessment, legal guardianship and foster care for unaccompanied and separated children)**

As explained above, **immigration detention** of children raises great concerns in Poland. Moreover, detention of victims of violence is prohibited in law, but in practice it is effected, also with regard to pushback-victims. The identification mechanism applied by the Border Guard is ineffective and too restrictive, resulting in many instances of unlawful detention of vulnerable persons (SIP 2022h, SIP 2022l, Commissioner for Human Rights 2022c). Border Guard relies on an internal document 'Rules of conduct of the Border Guard with migrants in need of special treatment', which is contrary to Polish law. According to this document, only a third-country national who can show evident symptoms that he or she was subject to serious forms of violence resulting in his or her psychophysical state being significantly below norms, cannot be detained. The internal document introduces additional conditions in relation to the law in force. Furthermore, the document did not solve the constant problem of the lack of proper mechanism of the identification of survivors of violence.

Moreover, persons seeking protection in Poland, in particular due to **sexual orientation, gender-based violence as well as torture victims** struggle to have their protection needs assessed properly (SIP 2022h). For example, the risk of gender-based violence upon removal is not sufficiently considered within asylum proceedings. Firstly, some Polish authorities oppose the fact that women may constitute a 'particular social group' within the meaning of the 1951 Refugee Convention. Secondly, the women's claims about the risk upon return and the past violence are often considered lacking credibility. Thirdly, Polish authorities tend to insist on proving by the victim that protection against violence was sought in the country of origin and apply incorrectly the internal relocation alternative. In consequence, gender-based violence victims rarely succeed in asylum proceedings. A similarly restrictive approach is taken in return proceedings where humanitarian stay due to a risk of ill-treatment upon return may be granted (SIP 2022l).

**12. Content of protection (including access to social security, social assistance, health care, housing and other basic services; integration into the labour market; measures to enhance language skills; measures to improve attainment in schooling and/or the education system and/or vocational training)**

A one-year **Individual Integration Program** for recognized refugees and beneficiaries of subsidiary protection continues to be insufficient to effectively support integration process - it is too short and is not tailored to individual needs of its recipients. Furthermore, the program does not apply to humanitarian stay holders who are also involuntary migrants (SIP 2022l).

**13. Return of former applicants for international protection**

In December 2022, the Provincial Administrative Court in Warsaw annulled the decision issued by the Head of the Office for Foreigners (a second-instance administrative authority) in return proceedings concerning a rejected asylum seeker (no. IV SA/Wa 1057/22, SIP 2023b). The appeal return procedure lasted almost 5 years and during this time a lot has changed in the third-country national's life, *inter alia* she contracted a religious marriage and her mother and siblings were granted humanitarian stay in Poland. Meanwhile, the Head of the Office for Foreigners did nothing to determine the current situation of a returnee; it just confirmed the first-instance decision on her return that has been issued almost 5 years ago. Meanwhile, the **ex nunc examination** of a case was required.

Return proceedings concerning third-country nationals, who are considered to constitute a **threat to national security** (including rejected asylum seekers under exclusion clauses and international

protection beneficiaries whose protection has been withdrawn), continued to raise serious doubts. The right to an effective remedy is not respected in those cases. None of the remedies available to third-country nationals considered as a security threat in Poland entails an automatic suspensive effect. The suspension of return may be requested though. Moreover, files in those cases are most often classified and only Polish authorities can access them in full. Decisions on return also contain no reasoning as regards the reasons of why a third-country national is considered to pose a threat (SIP 2022i). Abovementioned restrictions of procedural rights apply as well in asylum proceedings when an asylum seeker or a beneficiary of international protection is considered to constitute a threat. The procedural guarantees in return and asylum proceedings intertwined with national security in Poland, are clearly incoherent with the EU law. In 2022, this conclusion has been proved right, *per analogiam*, by the CJEU, who found the Hungarian asylum system in this regard precluded under the EU law (case C-159/21). The procedural safeguards for beneficiaries being withdrawn of their international protection due to national security considerations under the Polish law are very similar to the ones that have been criticized by the CJEU in the C-159/21 case. Despite that, the Polish Supreme Administrative Court (no. II OSK 457/21) did not see a reason to suspend its proceedings to await the abovementioned CJEU judgment, and before the preliminary questions in this case were answered, it concluded that the procedural rights of returnees suspected of terrorism are sufficiently protected in Poland (SIP 2023e).

*Exemplary court cases:*

- Supreme Administrative Court, judgment of 6 September 2022, no. II OSK 457/21.

14. Resettlement and humanitarian admission programmes (including EU Joint Resettlement Programme, national resettlement programme (UNHCR), National Humanitarian Admission Programme, private sponsorship programmes/schemes and ad hoc special programmes)
15. Relocation (ad hoc, emergency relocation; developments in activities organised under national schemes or on a bilateral basis)
16. National jurisprudence on international protection in 2022 (please include a link to the relevant case law and/or submit cases to the EUAA Case Law Database)

District Court in Bielsk Podlaski, VII Penal Division in Hajnówka (*Sąd Rejonowy w Bielsku Podlaskim, VII Zamiejscowy Wydział Karny w Hajnówce*), order of 28 March 2022, no. VII Kp 203/21: <https://interwencjaprawna.pl/en/pushbacks-are-inhumane-illegal-and-based-on-illegal-regulation/>  
Provincial Administrative Court in Białystok (*Wojewódzki Sąd Administracyjny w Białymstoku*), judgment of 15 September 2022, no. II SA/Bk 492/22, II SA/BK 493/22, II SA/Bk 494/22: [Sady orzekają, że pushbacki są nielegalne, a funkcjonariusze Straży Granicznej boją się odpowiedzialności | Helsińska Fundacja Praw Człowieka \(hfhr.pl\)](https://interwencjaprawna.pl/en/sady-orzekaja-ze-pushbacki-sa-nielegalne-a-funkcjonariusze-Strazy-Granicznej-boja-sie-odpowiedzialnosci-Helsijska-Fundacja-Praw-Clowieka-hfhr-pl)

Provincial Administrative Court in Warsaw (*Wojewódzki Sąd Administracyjny w Warszawie*), judgments of 27 April 2022, no. IV SA/Wa 471/22, and 26 April 2022, no. IV SA/Wa 420/22: <https://interwencjaprawna.pl/en/obligation-to-examine-whether-migrants-in-belarus-are-at-risk-of-torture-and-other-inhumane-treatment/>

Provincial Administrative Court in Warsaw (*Wojewódzki Sąd Administracyjny w Warszawie*), judgment no. IV SA/Wa 615/22: <https://hfhr.pl/co-nowego/straz-graniczna-uchodzcy-syria-granica-bialorus-sad-uchyla-decyzje>.

District Court in Biała Podlaska (*Sąd Rejonowy w Białej Podlaskiej*), judgment of 3 June 2022, no. II K 796/21: <https://interwencjaprawna.pl/en/criminal-proceedings-against-a-refugee-for-illegally-crossing-the-polish-border-discontinued/>.

Supreme Administrative Court, judgment of 5 July 2022, no. II OSK 1753/21: <https://interwencjaprawna.pl/en/despite-incorrect-implementation-of-eu-law-the-war-in-ukraine-must-be-taken-into-account-by-polish-courts/>

Provincial Administrative Court in Warsaw, judgment of 19 September 2022, no. IV SA/WA 876/22: <https://interwencjaprawna.pl/organy-azylowe-nie-moga-ignorowac-zalecen-sadu/>.

Provincial Administrative Court in Warsaw, judgment of 1 December 2022, no. IV SA/Wa 1057/22: <https://interwencjaprawna.pl/wsa-to-szef-udsc-ma-obowiazek-ustalenia-aktualnej-sytuacji-zyciowej-cudzoziemca/>

Supreme Administrative Court, judgment of 6 September 2022, no. II OSK 457/21: <https://interwencjaprawna.pl/en/the-supreme-administrative-courtacknowledges-that-deportation-cannotcreate-risk-of-torture-but-disagrees-onaccess-to-case-files/>.

## 17. Other important developments in 2022

### Temporary Protection

In Poland, two temporary protection mechanisms are in force. First one, based on the 2022 Special Law, applies only to Ukrainian nationals and their spouses. Second one, based on the legal framework concerning temporary protection existing before the war in Ukraine (the 2003 Act on Protection, *Ustawa z dnia 13 czerwca 2003 r. o udzielaniu cudzoziemcom ochrony na terytorium Rzeczypospolitej Polskiej*), is applicable to all other persons mentioned in Article 2 of the Council Implementing Decision (EU) 2022/382. In the first three quarters of 2022, approx. 1.400.000 persons registered as temporary protection beneficiaries under the 2022 Special Law, and approx. 1.200 persons registered as temporary protection beneficiaries under the 2003 Act on Protection (Office for Foreigners 2022).

**Personal scope of temporary protection raises concerns** (SIP 2022c). Firstly, Poland did not extend in any way the personal scope required under the Council Implementing Decision (EU) 2022/382. In consequence, many persons needing protection, like persons who came to the EU before 24 February 2022, have been left without support (albeit the legal stay of some of them has been prolonged). Persons who flew from Ukraine and were not eligible for temporary protection were often forced to depend on accommodation and other assistance provided by civil society organizations. Moreover, diverse problems with eligibility for temporary protection were reported, e.g.:

- As a rule, only spouses of Ukrainian nationals are eligible for temporary protection under the 2022 Special Law. Minor unmarried children of Ukrainian nationals and close relatives who lived together and who were dependent on a Ukrainian national, are not enjoying this protection.
- The temporary protection under the 2022 Special Law is offered in full only if a person concerned entered Poland in a regular manner.

Furthermore, **effective remedies are lacking** (SIP 2022c). A person that has been wrongly refused access to temporary protection has no access to an effective remedy. Most often, a person who has been not recognized as a temporary protection beneficiary is not even given a written decision in this regard; he or she is just sent away from the respective office with the oral information that he or she is denied temporary protection. Procedural rules as regards non-recognition are lacking, often leaving the persons concerned without a possibility to 'mount a legal challenge'. It is clearly against Article 29 of the Temporary Protection Directive in conjunction with Article 47 of the Charter of Fundamental Rights of the EU.

The **worrying refusals of entry, lack of a residence permit** required under Article 8 of the Temporary Protection Directive as well as the lack of the implementation of rules as regards voluntary returns have been already described above (point 1).

In addition, Ukrainian nationals and their spouses **have no right to a family reunification** (SIP 2022c). Under the 2022 Special Law, this right has not been provided for and no procedure exists in this regard. The 2003 Act on Protection provides for some rules as regards a family reunification of temporary protection beneficiaries. However, those rules are difficult to enforce in practice due to the lack of a procedure in this regard. It makes the right to family reunification illusory, bringing in the violation of Article 15 of the Temporary Protection Directive.

In 2022, SIP also observed an **increasing problem with the provision of accommodation** to persons enjoying temporary protection in Poland, in particular to Ukrainian nationals and their spouses.

Since the beginning of the conflict, the provision of accommodation has relied mostly on Polish society rather than on Polish authorities. Many war evacuees found a private accommodation, often for free. Under the 2022 Special Law (but not under the 2003 Act on Protection), landlords who offered their apartments and houses to Ukrainian nationals and their spouses and provided them with food can apply for a special financial allowance. However, it is limited in time (120 days, with some exceptions) and some difficulties in obtaining this support have been reported.

Under the 2022 Special Law and the 2003 Act on Protection, in 2022, accommodation was obligatorily provided by the Polish authorities for a period of no less than two months (counted from the day of the first entry to Poland) as far as public funds allow. It *might* have been provided for a longer period. Those limitations are not allowed under the Temporary Protection Directive. The rules as regards to accommodation were changed in January 2023: for worse. Now, under the 2022 Special Law, the obligation to provide accommodation for at least two months was removed; the respective authorities now have a full discretion in this regard. Since March 2023, the accommodation will be provided by Polish authorities free-of-charge only for 120 days, afterwards temporary protection beneficiaries will have to participate in its costs (with some exceptions).

Persons enjoying temporary protection in Poland under the 2003 Act on Protection, who are not accommodated in reception centres, are granted the same amount of money as asylum seekers; thus, max. PLN 25 per day per person. As explained above, NGOs, including SIP, have been alarming for years that such a meagre financial allowance is insufficient to cover even the most basic costs of everyday life, not to mention renting an apartment.

The situation of **children fleeing from Ukraine – unaccompanied and from Ukrainian foster care** – also raises concerns, described in detail in the Helsinki Foundation for Human Rights' report of October 2022 (HFHR 2022c). SIP joined other NGOs in alarming Polish authorities about dangers and needs of this particularly vulnerable group of war evacuees (SIP 2023c). The civil society *inter alia* called for:

- Adopting clear rules as regards the appointment, control, time limits and relieve of duties of temporary guardians (a special care-solution established in response to the war in Ukraine),
- More transparent and comprehensive data collection as regards those minors and their temporary guardians,
- Providing needed assistance to minors from Ukrainian foster care who reached the age of majority,
- Abolition of double standards between Polish minors in foster care and those who flew from Ukraine,
- Monitoring of the foster care personnel from Ukraine,
- Registration, exchange of information and monitoring as regards Ukrainian children learning online,
- Allowing entry to Poland to persons who temporarily returned to Ukraine, in particular when they left their children in Poland,
- Unifying the rules concerning temporary protection to all its minor beneficiaries (now, there are different rules for children from Ukraine and for other minor beneficiaries).
- Drafting a strategy regarding children's return to Ukraine (e.g. in respect to the documents' recognition).

**Access to information** for people fleeing from Ukraine was hampered by the fact that the Polish law on temporary protection is overly complicated and constantly amended. As of 31 January 2023, the 2022 Special Law has been changed 14 times. There is no legal certainty as regards the scope of rights of persons fleeing war in Ukraine. Some rights are just unexpectedly taken away. This is a case of a three-year residence permit that was guaranteed in law for Ukrainian nationals who entered Poland on

or after 24 February 2022 and stayed in Poland for at least 9 months. Some war evacuees stayed in Poland waiting for a possibility to apply for this residence permit to open, but before it was possible, Polish authorities announced that the respective provision is to be repealed (SIP 2022e). In January 2023, the special temporary residence permit was officially abolished.

**Legal aid for persons fleeing the war in Ukraine** has been provided by civil society organizations. SIP, *inter alia*, created a special portal where legal questions could have been asked and were answered by immigration lawyers: <https://ukraina.interwencjaprawna.pl/>. Moreover, it offered multiple legal trainings to NGOs and national authorities assisting persons who flew from Ukraine to Poland. It also published two brochures in Polish and Ukrainian:

1. concerning unaccompanied minors from Ukraine (SIP 2022f), and
2. concerning financial allowances for Ukrainian nationals who came to Poland on or after 24 February 2022 (SIP 2022g).

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**19. Feedback or suggestions about the process or format for submissions to the Asylum Report**

## Contact details

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